

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1119 OF 2023

Kalyan Ramchandra Dhumal	..Applicant
Versus	
The State of Maharashtra	..Respondents

Mr. Vikas Shivarkar for Applicant.
Mr. Avinash A. Naik, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 26 MARCH 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.77 of 2023 registered at Jejuri Police Station, District Pune Rural, on 27.02.2023, under sections 15 and 20 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'N.D.P.S. Act').

2. Heard Mr. Vikas Shivarkar, learned counsel for the applicant and Mr. Avinash Naik, learned APP for the State.

3. The F.I.R. is lodged by one Keshav Jagtap who is attached to Jejuri police station, as an Assistant Police Inspector.

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On 27.02.2023, their police station received an information that the opium poppy crops were cultivated. The police officer called two panchas and went to the spot. They found few opium poppy plants. According to the F.I.R. their weight was totaling to 872gms. They were removed and seized. The samples were taken and the F.I.R. was lodged U/s.15(c) and 20 of the N.D.P.S. Act. The F.I.R. mentions that the agricultural field belonged to one Babasaheb Shinde and Popat Shinde. On these allegations the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, sections 15(c) and 20 of the N.D.P.S. Act are wrongly applied. The correct section is Section 18 of the N.D.P.S. Act. He submitted that, it is a small quantity and, therefore, it would be a bailable offence. He further submitted that the agricultural field does not belong to the applicant and, therefore, there is nothing to connect the applicant with the cultivation of poppy straw.

5. Learned APP opposed these submissions. He produced the investigation papers before me.

6. I have considered these submissions. The C.A. report shows that the sample was of 'opium poppy plant'. However, the crucial question is how applicant is connected with the cultivation of that opium poppy plant. For that purpose, the investigating agency has recorded the statements of Babasaheb Shinde and Popat Shinde. Both of them have stated that the land belongs to them, but it was given to the applicant for cultivation. There is a statement of one Sagar Sutar who had given the information to the police. He has stated that the applicant and other members of his family were cultivating that land. But he was not aware as to who were the owners of that land. There is no independent witness who has stated that the applicant was cultivating that land. Babasaheb Shinde and Popat Shinde, are not reliable as they were the owners of the land. They have reason to protect themselves. As far as Sagar is concerned, he has not mentioned that the applicant has exclusively cultivated that land alone. In this view of the matter, the evidence against the applicant is vague and insufficient. Therefore, the applicant's custodial interrogation will not be justified. It is sufficient if he co-operates with the investigation.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.77 of 2023 registered at Jejuri Police Station, District Pune Rural, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Applicant shall attend the concerned Police as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)