

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

CRIMINAL BAIL APPLICATION NO. 1553 OF 2024

Murar Naganath Dhokale

...Applicant

Versus

The State of Maharashtra
Union of India

...Respondents

Mr. Vikrant Phatate i/by Mr. Vishal G. Waghela, Advocates, for the Applicant.

Mr. Dashrath A. Dubey with Mr. Rupesh D. Dubey, Mr. Sachidanand T. Singh for Respondent No.1.

Mr. Prasanna Malshe, APP, for Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 29th April 2024

P. C.

1. Heard Mr. Phatate, learned Counsel for the Applicant, Mr. Dashrath Dubey, learned Counsel for the Union of India and Mr. Malshe, learned APP.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C.R. No.	9 of 2023
2.	Date of registration of F.I.R.	19 th September 2023
3.	Name of Police Station	Pune Custom NDPS Police Station.
4.	Section/s invoked	20(a), 46, 25, 29 r/w 8(c) of NDPS Act, 1985.
5.	Date of incident	19 th March 2023

6.	Date of arrest	19 th September 2023
7.	Date of filing Charge-sheet/Complaint	18 th November 2023

3. As per the prosecution case the Applicant has cultivated about 1770 cannabis plants.

4. Mr. Phatate, learned Counsel for the Applicant submitted that the Applicant is 90 years old. He is incarcerated for more than 7 months. There are no antecedents.

5. On the other hand, learned Counsel for the Respondent Nos. 1 and 2 strongly opposed the Bail Application. It is submitted that the offence is under the Narcotic Drugs and Psychotropic Substances Act, 1985, and therefore before considering the Bail Application favourably, Court is required to record satisfaction of twin conditions as required under Section 37 of the NDPS Act. They submitted that the Applicant has planted total 1,770 plants. Therefore, the Bail Application be rejected.

6. However, Mr. Phatate, learned Counsel for the Applicant states that all these plants are now destroyed by the Authority and the Applicant is ready and willing to file an undertaking before the learned Trial Court before release on bail that the Applicant will not again cultivate the cannabis plants or will not indulge in any activity prohibited by NDPS Act.

7. Perusal of record shows that the F.I.R. was lodged on 19th September 2023, the Applicant was arrested on the same day i.e. on 19th September 2023 and the NDPS Sessions Case No.300 of 2023 was filed on 18th November 2023. It is an admitted position that 1,770 cannabis plants which the Applicant has planted have been destroyed by the Authority. The Applicant is ready and willing to give an undertaking that he will not again cultivate the cannabis plants or will not indulge in any activity prohibited by NDPS Act. Mr. Phatate, learned Counsel for the Applicant on instructions states that such type of Affidavit will be filed as early as possible and in any case, within a period of 1 week from today.

8. The Applicant is 90 years old. There is a requirement of satisfying of twin conditions as contained in Section 37 of NDPS Act. However, as the plants are destroyed by the Authority, and the Applicant is ready and willing to give an undertaking, this is a fit case to grant bail in the facts and circumstances of this case.

9. The Applicant does not appear to be at risk of flight.

10. The Applicant does not have any criminal antecedents.

11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

12. In view thereof, the following order:-

ORDER

(a) The Applicant - Murar Naganath Dhokale be released on bail in connection with Customs C.R. No.9 of 2023 registered with the Pune Custom NDPS Police Station, Pune, District - Pune (NDPS Sessions Case No. 300 of 2023) on his furnishing P.R. Bond of Rs.1,00,000/- (Rupees One Lakh Only) with one or two local solvent sureties in the like amount.

(b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(c) The Applicant to file appropriate undertaking before the learned Sessions Court before being released on bail undertaking not to cultivate cannabis plants and not to indulge in any activity which is prohibited by NDPS Act, 1985.

(d) The Applicant shall report to the Pune Custom NDPS Police Station, Pune District - Pune as and when called.

(e) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

(f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any prosecution witness in any manner.

(g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.

14. It is clarified that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]