

that the contraband which was seized was including leaves and flowers and there is nothing to show that it was accompanied with fruiting tops.

4. Thus, it is evident that firstly no samples were drawn before mixing the contents of all the 12 packets but the sample was drawn after mixing all the 12 packets. Furthermore, the exact weight of the contraband i.e. Ganja cannot be determined as it was not separated from the leaves and flowers.

5. The learned APP though opposing the application strongly is not disputing that separate 12 samples were not drawn from all the 12 packets and further nothing has been pointed out that Ganja was separated from leaves and flowers and then it was weighed.

6. Since the definition of Ganja is given under the NDPS, Act and if the same is considered, *prima facie*, in absence of evidence that the Ganja was separated from leaves and flowers, it is difficult to determine the exact weight of the contraband. Moreover, all the 12 packets were mixed contrary to the well settled provisions of law. Hence, I am of the opinion that the applicant is entitled for grant of bail. Furthermore, it is to be noted that there are no antecedents against the applicant.

7. The learned APP pointed out that the applicant's permanent address is Sikanderabad though he is residing in Aurangabad. It is submitted that there is every likelihood that the applicant may not be available for trial, if he is released on bail.

8. Thereupon, the learned counsel for the applicant makes a

statement that the applicant is ready to give a local surety.

9. In the circumstance, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant shall be released on bail in Crime No.325 of 2023, registered with Wakad Police Station, Pune, for the offences punishable under Section 8(c) and 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, on furnishing P.R.Bond of Rupees Twenty-Five Thousand with one local surety in the like amount;
- iii) The applicant shall attend the concerned Police Station on 1st day of every month between 10.00a.m. to 11.00 a.m., till the conclusion of the trial except on the date of trial;
- iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- v) Liberty is granted to the State to apply for cancellation of bail if the applicant commits similar offence

vi) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

10. The application is disposed of .

(ANIL S. KILOR, J)