

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3164 OF 2024**

Gurubasu Kalappa Bhavikatti	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Kuldeep U. Nikam for applicant.

Mr. Kiran C. Shinde, APP for respondent-State.

CORAM : MANISH PITALE, J.

DATE : 28th NOVEMBER, 2024

P.C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0559 of 2024 dated 07.10.2024, registered at Jath Police Station, District Sangli, for offences under Sections 20, 20(b), 20(b)(ii) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

3. The FIR has been registered on the allegation that cannabis plants pertaining to *ganja* to the extent of about 472 kgs, was recovered. The aforesaid being commercial quantity, the applicant would be facing prosecution for the aforesaid offences.

4. The learned counsel for the applicant points out that the Sessions Court recorded findings that there was violation of Sections 42(2) and 52A of the NDPS Act and yet, dismissed the application for

anticipatory bail, only on the ground that *prima facie*, offence under Section 20(a) of the NDPS Act was made out against the applicant, although the FIR does not show registration of said offence under the said provision.

5. It is submitted that in such a situation, this Court may consider allowing the application, as the applicant intends to co-operate with the investigation.

6. On the other hand, the learned APP tendered certain documents to show that the findings rendered by the Sessions Court, are not borne out from the record. The said documents are taken on record and marked 'X (Colly).' He submits that the aforesaid documents show compliance with the mandatory requirements under Sections 42(2) and 52A of the NDPS Act, thereby showing that there is no substance in the contention raised on behalf of the applicant.

7. This Court has perused the documents tendered across the bar. Copy of a communication dated 07.10.2024 addressed by the investigating officer to his superior about the secret information received, in respect of the offences in question, *prima facie* sufficiently satisfies the requirement of Section 42(2) of the NDPS Act. Similarly, the certification of inventory dated 09.10.2024, prepared by the concerned Magistrate, *prima facie* shows compliance with Section 52A of the NDPS Act. Therefore, there is no substance in the contentions raised on behalf of the applicant. It is surprising that the aforesaid documents were not produced before the Sessions Court, leading to the findings rendered, in the order dated 25.10.2024 passed by the Sessions Court.

8. Be that as it may, the aforesaid documents sufficiently answer the contentions raised on behalf of the applicant, in respect of non-compliance with mandatory requirements under Sections 42(2) and 52A of the NDPS Act

9. At this stage, it was sought to be argued that the applicant is not concerned with the piece of land on which the cannabis plants were found. This Court cannot go into the said issue, while considering the application for anticipatory bail. No case is made out for granting anticipatory bail.

10. The application is dismissed.

(MANISH PITALE, J)

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