



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

BAIL APPLICATION NO. 1445 OF 2025

BABAN ALIAS ASHOK ASARAM SHIRKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Narayan B. Narwade
APP for Respondent / State : Mr. K. K. Naik.
...

CORAM : **SANJAY A. DESHMUKH, J.**
RESERVED ON : 07th October, 2025.
PRONOUNCED ON : 17th October, 2025.

ORDER:

1 Heard both the sides.

2 This is an application, under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short “the BNSS”), for grant of
regular bail in connection with Crime No.138 of 2025, registered with
Ahilyanagar Taluka Police Station, District Ahilyanagar, for the offences
punishable under Section 8(b) and 18 of the Narcotic Drugs and
Psychotropic Substances Act, 1985 (for short, “the NDPS Act”).

3 The learned counsel for the applicant pointed out the
report, in which the informant police official averred that a secrete

information was received that opium was planted by the applicant in his agricultural land Block No.317/4 of village Sarola Kasar, Taluka and District Ahilyanagar. All the formalities were followed i.e. sealing and labeling material etc. They all went to the agricultural land of the applicant. The applicant was present there. The applicant said that it is his land. At that time, they seized the opium plants having greenish-yellow flowers. It was 30 x 30 feet land. 1360 opium plants weighing 16 kg (some wet, some dried), valued at Rs.1,36,000/-, 1105 opium plants weighing 13 kg (some wet, some dried) valued at Rs.1,10,500/-, 960 opium plants weighing approximately 11.3 valued at Rs.96,000/- and 850 opium plants weighing 10 kg (some wet, some dried) valued at Rs.85,000/-, total 50 kg were seized. Thereafter, the report was lodged.

4 The learned counsel for the applicant submitted that the applicant is falsely implicated in the crime. The applicant has no criminal antecedents. He has roots in the society and he will not flee away from trial. The trees are not segregated and therefore, it cannot be termed as opium / Ganja. Therefore, the applicant is entitled for bail. Trial will take a long period. It is lastly prayed to allow the applications.

5 The learned counsel for the applicant relied upon the

following authorities:-

- a) In ***Hanumant Arjun Pathare Vs. The State of Maharashtra***, (Bail Application No.1277 of 2023) decided by this Court on 8th September, 2023, it is held that in absence of segregation, seized material cannot be termed as “ganja”.
- b) In ***Bharatbhai Gordhanbhai Zezariya Ta. Koli Vs. State of Gujarat***, (Criminal Misc. Application No.2267 of 222) decided on 25th March, 2022 by the Gujarat High Court, it is held that no specific quantity has been defined for cultivation of opium poppy.
- c) In ***Vishram Vs. The State of Madhya Pradesh***, (Misc. Criminal Case No.27835 of 224) decided on 14th August, 2024 by the Madhya Pradesh High Court, it is held that small quantity was found for which punishment is less than 10 years and therefore, bail was granted.

6 The learned APP for the State strongly opposed the application and submitted that the applicant is involved in the serious crime. Such crimes are frequently occurring. Our new generation is suffering from such crimes. The applicant was found on the spot. If he is released on bail, he will commit crimes of similar nature again. It is lastly prayed to reject the application.

7 Perused the report, seizure *Panchanama* and the statements of witnesses.

8 The applicant is booked for serious crime. He was found on the spot with opium plants of 50.3 Kg. It is serious offence against the society. Because of such crimes, our new generation is suffering a lot. The seized flowers are part and parcel of *Ganja* as defined in the definition of *Ganja*. If the applicant is released on bail, he will certainly commit same nature of crime again. There is possibility of commission of same nature of crime on his part. Considering all these reasons and particularly the huge quantity of opium seized from the agricultural land of the applicant, the applicant is not entitled for bail. The facts of the case are always decisive. Considering the different facts and circumstances of this case, the authorities relied upon by the learned counsel for the applicant are not helpful to the applicant.

9 Therefore, considering all these reasons, the applicant is certainly not entitled for bail. The application is rejected.

[SANJAY A. DESHMUKH, J.]