



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1941 OF 2024**

Shubham Asaram Bahure,
Age: 28 Yrs, Occ. Agril,
R/o Bodhegaon, Tq. Phulambri,
Dist. Aurangabad

..Applicant

Versus

The State of Maharashtra

..Respondent

...

Mr. A. K. Bhosle, Advocate for the Applicant.

Mr. Rajkumar B. Dhaware, PP for Respondent-State.

...

**CORAM : SANJAY A. DESHMUKH, J.
DATED : 23rd JANUARY, 2025.**

ORDER:-

1. This is second application for granting regular bail under Section 483 of Bharatiya Nagrik Suraksha Sanhita, 2023. This Court has shown disinclination to allow the application of this applicant in Bail Application No.2262/2023 by an another order dated 05.02.2024 hence, it was withdrawn.

2. Applicant is arrested in the Crime No. 288/2023, registered with State Excise Police Station, State Excise Department, Dist. Aurangabad for the offence punishable u/sec. 20(a), (b), (i), (ii) & (c) of the Narcotics Drugs and Psychotropic Substances Act, 1985.

3. It is the case of the prosecution that, on 28.09.2023, Flying Squad of Excise Department, received a secret information that, the accused has planted Cannabis i.e. Ganja in his father's agricultural

land, bearing block No. 418 situated at village Bodhegaon (Bk). Therefore, the State Excise Department effected raid with the Panchas and found that the accused has planted Cannabis (Ganja) plants with flowering top. The State Excise Dept. seized 144.58 kg Cannabis plants which includes roots, branches and flowering top. The informant Excise Official Mr. H. A. Bari lodged a report against the applicant. Investigation was completed and charge-sheet is filed against the applicant.

4. Learned Advocate for the applicants submitted that applicant's earlier application bearing No.356/2024 was rejected by this Court, however, there is change in the circumstance that now, the charge-sheet is filed. He submitted that this Court has granted bail in Bail Application No. 695/2024 for the similar offence on account of quantum of the Cannabis. He submitted that seizure of the Cannabis is seriously doubtful. He therefore prayed to grant the bail.

5. Learned APP for the State strongly opposed the application and submitted that earlier, this Court has rejected bail application as there is commercial quantity of the Cannabis. There is no any change in the circumstance. He submitted that seeds, leaves are to be included and not excluded alongwith flowering tops and fruiting tops. He submitted to reject the application. He is relying upon the judgment of Hon'ble Supreme Court in the case of *State by the Inspector of Police Vs. B.*

Ramu Criminal Appeal arising out of SLP No. (Criminal No. 8137/2022) para 11 of the same reads as under:

“In case of recovery of such huge quantity of narcotics substance, the Court should be slow in granting even Regular Bail to such accused .”

6. Perused the charge sheet, the report and seizure panchnama of Cannabis.

7. It is the case of prosecution that in the agricultural land of the father of applicant, applicant grown up Cannabis. It is admitted fact that seeds, leaves etc. are accompanied alongwith fruiting tops and flowering tops are weighed. In the case of **Ajay Vitthal Shriram Vs. State of Maharashtra**, Bail Application 1725/2021 dated 16.03.2022, this Court held as under:

“Cannabis plant were seized which in aggregate weighed 42.6 kg. In the case at hand, the plants were weighed along with tops.”

8. This Court in the above case granted bail.

9. Now, the weight of the seized cannabis is reduced because after some months, after its seizure, it becomes dry. The applicant is involved in the serious anti social crime. Considering the quantity of the seized cannabis trees, it is found that at the time of raid, 144.58 Kg cannabis trees including roots, flowering, top etc. were found and seized. At the time of filing of charge sheet, some weight of cannabis is

reduced. But it becomes dry and it is natural. This Court had already shown disinclination to allow the application. Further, as per mandate of Section 37 of NDPS Act, the applicant has not made out case for bail, the facts of the case are that the applicant is not entitled for bail. Further, there is no any change in the circumstance to consider freshly this application when earlier one was rejected. The order of this Court granting bail on which applicant relied upon case of ***Ajay Vitthal Shriram Vs. State of Maharashtra*** is not helpful to the applicant as each case has to be decided on its own merits and facts of the case are deceive, particularly when the Supreme Court in the case of ***State by the Inspector of Police Vs. B. Ramu*** (supra).

10. The applicant is involved in the serious anti-social crime, the possibility of commission of same nature of crime on the part of applicant cannot be ruled out, as he is booked for serious crime. Therefore, considering peculiar set of the facts, the application cannot be allowed for the reasons discussed above. Thus, considering the commercial quantity of the cannabis, the application deserves to be rejected. Hence, following order.

ORDER

Application is rejected.

(SANJAY A. DESHMUKH)
JUDGE