



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 2166 OF 2024

Ashok Jamsing Chavan @ Pawara
Age: 37 years, Occu.: Labour,
R/o. Malkatar,
Tq. & Dist.Barwani (M.P.)

....Applicant

Versus

The State of Maharashtra
Through Police Inspector,
Shahada Police Station,
Tq.Shahada, Dist.Nandurbar.

.....Respondent

.....
Advocate for Applicant : Ms. Karishma Sanjay Sarin
APP for Respondent : Mr.PK.Lakhotiya
.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 22 JANUARY, 2025

PRONOUNCED ON : 23 JANUARY, 2025

ORDER :

1. By way of instant application, applicant seeks his enlargement on regular bail on account of his arrest in Crime no.0632 of 2024 registered at Shahada Police Station, District Nandurbar for offence under Sections 8(c), 20(b), 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

2. Pointing to the date of arrest to be 27-10-2024, learned counsel for the applicant submitted that there is false implication. That, there are allegations of cultivating *Ganja*, however, according to learned counsel, there is nothing to show that said cultivation was at the instance of applicant or the land to be in his possession. She further pointed out that, raiding party seized wet plants, leaves with roots and there is no evidence about flowering to be in huge quantity. According to her, there is no evidence suggesting segregation of plants, leaves, roots and therefore, she questions the weight of *Ganja* alleged by investigating machinery to be 140 kg. 530 gm. She further pointed out that, in similar crime, this Court was pleased to allow bail application, even when quantity alleged to be seized is over 400 kg. That, now nothing further is to be recovered or discovered. That, applicant is a labour and that there is nothing to show that he possessed or own the land, which allegedly has cultivation of *Ganja*. She also pointed out that, law is settled that there has to be strict compliance of procedure laid down in Section 42 of the NDPS Act. Here, there is utter disregard to the same as there is no prompt reporting in writing. For said reason also, she seeks indulgence by allowing bail application.

3. Learned APP, who opposed the application, pointed out that applicant was found to be in possession of land. There is reference to that extent in the panchanama. He pointed out that infact, land was belonging to Forest Department, however, secretly cultivation is taken in the same. That, there is seizure of huge Ganja plants. That, applicant was apprehended from the spot and hence, relief as prayed is opposed.

4. After considering the submissions and on going through the papers placed on record, it transpires that FIR dated 26-10-2024 is at the instance of Police personnel, who has set law into motion on conducting raid on alleged receipt of secret information. He reported that, during raid, *Ganja* cultivation was found in the field in Ghotalipada Shivar and one person was spotted uprooting plants and therefore, was enquired and he gave his name as Ashok Jamsing Chavan (Pawara) i.e. present applicant and on further enquiry about ownership of land, he stated that it belongs to Forest Department and that he and his brother Subhash are jointly cultivating land since many years. According to informant, Ganja weighing 140kg. 530gm. in the form of wet plants were found and seized. As pointed out, from the FIR, atleast *prima facie* it does not appear that there was

segregation and the said plants to be carrying flowers. Taking the same into consideration and as seizure is already effected, and applicant is shown to be behind bars since more than two months and when no further purpose is shown to be achieved by detaining the applicant further, application deserves to be allowed. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Ashok Jamsing Chavan @ Pawara be released on bail in connection with Crime no.0632 of 2024 registered with Shahada Police Station, Dist.Nandurbar on executing Personal Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not leave vicinity of Shahada Police Station without prior permission of the Court.
- (iv) Applicant shall not tamper prosecution evidence.

(ABHAY S. WAGHWASE)
JUDGE