

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 2163 OF 2024

Mahesh Tulshiram Parit

...Applicant

VERSUS

The State of Maharashtra

...Respondent

....

Mr. Chaitanya Purankar, a/w Mr. Amit Icham, Advocate for the Applicant.

Ms. Anamika Malhotra, A.P.P. for the Respondent – State.

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CORAM : N. R. BORKAR, J.
DATE : 20.06.2025.

P.C.:

1. The learned counsel for the applicant seeks leave to amend the cause title of the application to correct the name of the applicant. Leave as sought is granted. Necessary amendment shall be carried out forthwith.
2. This is an application for regular bail.
3. The applicant came to be arrested in Crime No. 707 of 2023 registered at Lonikand Police Station, Dist- Pune for the offences punishable under Sections 8(c), 20(b)(ii) (c) & 29 of the Narcotic Drugs and Psychotropic Substances Act and under Sections 170 read with 34 of the Indian Penal Code.
4. The applicant is accused No.3 in the aforesaid crime.

In the intervening night of 01.09.2023 & 02.09.2023, on the basis of secret information, the applicant and other co-accused were apprehended and commercial quantity of Ganja was found in their possession.

5. I have heard the learned counsel for the applicant and the learned APP for the respondent/State.

6. The learned counsel for the applicant submits that the seizure panchanama as well as C.A report reveals that the seized material was consisting of heterogeneous mixture i.e greenish-brownish leaves, flowering/fruiting tops, seeds and stalks. It is submitted that Section 2(ii)(b) of the NDPS Act defines Ganja as the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops). Learned counsel for the applicant submits that the flowering tops therefore ought to have been separately weighed. In support of the said submission, the learned counsel for the applicant has relied upon the order passed by this Court dated 29.07.2021 in Bail Application No. 2299 of 2019. The learned counsel for the applicant submits that even otherwise the applicant is in jail for one year and nine months and the trial is still at the stage of framing of charge. It is submitted that there are no other criminal antecedents against the applicant.

7. On the other hand, the learned APP for the Respondent/State submits that the applicant and other co-accused were found in possession of commercial quantity of ganja and therefore unless the rigours of Section 37 of

the NDPS Act are satisfied the applicant is not entitled to bail. Learned APP submits that considering the nature of crime the applicant may not be released on bail.

8. This Court by order dated 29.07.2021, in Bail Application No. 2299 of 2019, while releasing the applicant therein on bail has held :

“It is however to be noted that the chemical analysis report reveals that the material forwarded for analysis contained flower buds with pieces of stalks, leaves and seeds, without quantifying the weight of flower tops. This fact *prima facie* raises a doubt whether ganja seized from the warehouse of the accused was of commercial quantity as to attract the provisions under Section 20(C) of the NDPS Act.”

9. Similar is the situation in the present case. Even otherwise the applicant is in jail for one year and nine months and the trial is still at the stage of framing of charges. There are no other criminal antecedents. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on bail. In the result, the following order is passed:

ORDER

A] The Application is allowed.

B] The applicant be released on bail in Crime No. 707 of 2023 registered at Lonikand Police Station, Dist- Pune for the offences punishable under Sections 8(c),

20(b)(ii)(c) & 29 of the Narcotic Drugs and Psychotropic Substances Act and under Sections 170 read with 34 of the Indian Penal Code, on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

C] The applicant shall attend the concerned police station once in a month, i.e., on first Saturday between 11:00 am to 2:00 pm, till conclusion of the trial.

D] The applicant shall not commit any other crime.

10. Application stands disposed of accordingly.

(N. R. BORKAR, J.)