

Order below Exh.27 (Bail Application) in
N.D.P.S. Case No.2 of 2019.
(CNR No : MHST01-001216-2019)
(State of Maharashtra vs. Shankar Jadhav)

This is the application on behalf of accused No.2 seeking bail stating that as per prosecution's case accused No.1 is found in possession of 4 kg 200 gm Ganja and accused No.2 is found in possession of 82 Kg Ganja, accused were remanded to Police Custody and subsequently in Magisterial custody and now accused No.2 is under-trial prisoner.

02. Application is filed on the ground that accused no.2 has not committed offence under Section 20(b)(ii)(c) of N.D.P.S. Act, offence is not punishable with imprisonment for life or death sentence, there is no compliance u/s 42 and 50 of the Act, accused is in jail since last 4 years, even the charge is not framed, there is no progress in trial, after filing charge-sheet there is no necessity to keep the applicant behind bar.

03. Application is opposed on the ground that allegations against the accused are serious, both the accused were found in possession of Ganja weighing 86.100 kg, accused have not disclosed from whom they have secured the seized Ganja and to whom they wanted to sell the same, hence applicant/ accused is not entitled to get bail, possibility is there of repetition of crime, prosecution has submitted draft charge on 08.08.2019, prosecution is ready to proceed with the matter.

04. Heard Advocate for applicant and the learned A.P.P.

05. Advocate for applicant relied on judgments in Bail Application No. 2299 of 2019, 2522 of 2014 and 459 of 2021 of Hon'ble

Bombay High Court. Advocate for accused pointed out C.A. report and submitted that exact quantity of Ganja cannot be ascertained to come to conclusion that accused was found in possession of commercial quantity. It is also submitted that this aspect was not raised in earlier application nor it was dealt in earlier orders.

06. It is submitted on behalf of prosecution that present application is third application, other applicant is granted bail by Hon'ble High Court observing that he was found in possession of 4 kg Ganja, earlier applications were on same ground.

07. I agree that there is no mention of separate weight of flowering tops, description shows that seized articles were flowering tops mixed with stalks, stems leaves and seeds, hence law laid down in the judgments cited supra will be applicable. Assuming that exact weight cannot be ascertained to conclude that accused was found in possession of commercial quantity of Ganja, but the grounds on which earlier application is rejected still exist. Hence I am not inclined to grant bail to the applicant. I pass following order :

ORDER

Application Exh.27 stands rejected.

Satara.

Date : 04.03.2022.

(B.S.Wavre)

Addl. Sessions Judge, SATARA.