

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous Bail Application No. 2376/2024

Rajesh Sharma S/o Murari Lal, R/o Ramleela Maidan, Khandar,
District Sawai Madhopur (Rajasthan) (At Present In District Jail,
Sawai Madhopur). -----Petitioner

Versus

The State Of Rajasthan, Through PP -----Respondent

For Petitioner(s) : Mr. Dinesh Kumar Pathak
For Respondent(s) : Mr. M.S. Saini, PP

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

27/02/2024

1. The instant bail application has been filed under Section 439 Cr.P.C. on behalf of accused-petitioner -Rajesh Sharma. The accused-petitioner has been arrested in connection with FIR No.32/2024 registered at Police Station Khandar, District Sawai Madhopur for the offence(s) under Section 8/20 of the NDPS Act.

2. Learned counsel for the accused-petitioner submits that accused-petitioner is an innocent person and has falsely implicated in the matter. He further submits that police showing false recovery of the contraband article "Ganja" whereas the contraband article recovered was not "Ganja" but the same was "Bhang" and the petitioner himself is the Bhang contractor and having valid license in his name. He further submits that contraband (leaves) does not fall within the definition of "Ganja" because it consists of leaves, seeds, buds and stalks of the cannabis plants. The leaves and stalks of cannabis plant are expressly excluded from the definition of Ganja. He further submits that as per Central Government notification S.O.527 dated 16.07.1996 specifying small quantity and commercial



quantity of Narcotics Drugs and Psychotropic Substances, it does not prescribe commercial and small quantity of cannabis plant. Therefore, bail application of the accused-petitioner may be allowed.

3. Learned Public Prosecutor vehemently opposes the bail application.

4. Heard learned counsel for the accused-petitioner and learned Public Prosecutor and perused the material available on record.

5. Considered the arguments advanced by the counsel for the parties and the fact that leaves of cannabis plant containing 28.600 gms are shown to be recovered from the accused-petitioner. Section 2 (iii)(b) of the NDPS Act contains the definition of Ganja and as per definition clause flowering of fruiting tops of cannabis plant falls within the ambit of Ganja. The seeds and leaves without tops are not termed as Ganja. Therefore, without commenting anything on the merits/demerits of the case, I deem it just and proper to enlarge the accused-petitioner on bail.

7. Accordingly, the bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner **Rajesh Sharma S/o Murari Lal** in connection with FIR No.32/2024 registered at Police Station Khandar, District Sawai Madhopur shall be enlarged on bail provided he furnishes a personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the learned trial Judge for his appearance before the court concerned on all the dates of hearing as and when called upon to do so.

(PRAVEER BHATNAGAR),J