

2023 LiveLaw (SC) 354

**IN THE SUPREME COURT OF INDIA
HRISHIKESH ROY; J., MANOJ MISRA; J.**

**Petition(s) for Special Leave to Appeal (Crl.) No(s).2523/2023; 26-04-2023
HASUBHAI KAMABHAI THAKOR *versus* THE STATE OF GUJARAT**

**Narcotic Drugs and Psychotropic Substances Act, 1985 - Definition of "ganja"
under the Act does not include ganja seeds - Ganja seeds not a banned contraband.**

(Arising out of impugned final judgment and order dated 17-10-2022 in CRLMA No.13884/2022 passed by the High Court of Gujarat at Ahmedabad)

For Petitioner(s) Mr. Somesh Chandra Jha, AOR Mr. Mayank Gautam, Adv. Mr. Parvez Alam, Adv. Mr. Alok M Thakkar, Adv. Mr. Nilay V Suchak, Adv.

For Respondent(s) Mr. Rajat Nair, Adv. Ms. Swati Ghildiyal, AOR Ms. Devyani Bhatt, Adv.

ORDER

Heard Mr. Somesh Chandra Jha, learned counsel appearing for the petitioner. Also heard Mr. Rajat Nair, learned counsel appearing for the respondent-State.

2. The petitioner is in custody since 20.05.2022 and he is before this Court challenging the rejection of his bail petition by the High Court under the impugned order.

3. The materials on record show that the petitioner has supplied Ganja seed for cultivation and as per the definition of Ganja in Section 2(iii)(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), it is not a banned contraband. There are no specific allegation that the Ganja seeds were supplied by the petitioner to the other person with an intention to receive back the grown Ganja after cultivation.

4. The respondent-State has not filed any counter affidavit in the matter but from the materials made available, it can be seen that at best the petitioner can be said to have supplied Ganja seeds for plantation.

5. Taking the above into account and the incarceration of the petitioner since 20.05.2022 as also noticing that the chargesheet has already been filed, we deem it appropriate to release the petitioner on bail. Accordingly, the petitioner be released on bail subject to the terms and conditions to be imposed by the learned Trial Court.

6. With the above order, the Special Leave Petition is disposed of. The observations in this order will have no bearing in the case either of the prosecution or of defence, in the trial.

7. Pending application(s), if any, stand closed.

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