

**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR  
MCRC No. 5465 of 2024**

*(MUKESH MEENA Vs THE STATE OF MADHYA PRADESH)*

**Dated : 12-03-2024**

Shri Rajmani Bansal - Advocate for the applicant.

Shri Vivek Khedkar - AAG and Shri Ravindra Singh Kushwah - Dy.A.G. for respondent/State.

1. Shri Arvind Kumar Shukla, Vice Chancellor, Rajmata Vijayaraje Scindia Agricultural University, Gwalior and Shri Elanchezian and Shri Mohanty from Indian Council of Agricultural Research (Soil Research) Bhopal are connected online (through V.C. mode).

2. The applicant has filed this third application under Section 439 of Code of Criminal Procedure for grant of bail. Applicant has been arrested on 06.10.2023 by Police Station Banmore, District Morena, relating to Crime No.16/2022 for the offences punishable under Section 8/15 of NDPS Act.

3. The instant case is in respect of bail application of a person who is facing allegation of cultivation of Opium (Poppy Straw). Arguments of counsel for the applicant is that he never cultivated the said contraband article and has been falsely implicated. His source of implication is memo under Section 27 of Evidence Act of co-accused who happens to be a carrier of contraband articles. This Court was of prima facie opinion that to curb the menace of drugs trafficking, source of cultivation of contraband articles like Opium, Ganja etc. needs to be checked. Therefore, role of Apex Perpetrator (ring leader/main accused) is required to be investigated and this Court in the case of Arvind Singh Vs. State of M.P., in M.Cr.C. No.51311/2023 directed the police authorities to investigate the role of

Apex Perpetrators also in cases of NDPS Act. For that purpose, Police Department has undertaken the project of incorporation of study material in their Police Academies/Police Training Schools to teach police officers/constables about investigation pertaining to role of Apex Perpetrators.

4. When in the present case, police investigated the role of Apex Perpetrator, then police found that Opium (Poppy Straw) was cultivated allegedly by present applicant. Now question looms large - how it would be ascertained that said crop was cultivated over the land belongs to applicant. In other words, how it would be successfully investigated that applicant cultivated the Opium and then sold it to some middleman who transported it to different places for sale. For this purpose, evidence is required to be collected which is an uphill task.

5. Therefore, this Court raised the question from the Additional Advocate General Shri Vivek Khedkar and Shri Ravindra Singh Kushwaha, Dy. Advocate General about collecting evidence from Soil Testing or from DNA sampling of plants or from study of Pollen Grain and Spores (Palynology). For which, learned Additional Advocate General requested the Agriculture Scientists including the Vice-Chancellor of Rajmata Vijayaraje Schindia Agriculture University to throw some light over it.

6. Through online Vice Chancellor and other Agriculture Scientist appeared before this Court. After due deliberations, they were enthusiastic about the idea of Soil Testing/Tracing and for ascertaining the Nature of Crop (through DNA sampling) earlier cultivated in a particular region.

7. According to this Court, **following questions**, if are addressed by way of Hypothesis, then answer to these questions may scientifically and logically lead to a definitive solution.

**Questions are as under :**

**i.** Whether through Satellite Monitoring and on Ground Sampling (as the case may be) different regions where Narcotics drugs or Psychotropic substances are cultivated can be catalogued.

By this mechanism data bank of different Geographical Regions which cultivate contraband articles can be created. Perhaps Scientist may find out that every soil/region has crops with special characteristics. Those special characteristics act as Marker denoting the source of contraband crop.

**ii.** Whether any contraband article which is recovered and seized by the Police/NCB/CBN can undergo **DNA sampling** or study of **Pollen Grain/Spores (Palynology) etc.** to ascertain the source of Geographical Region where that crop got cultivated.

**iii.** Whether through Soil Testing or Study of Soil, it can be inferred that in last one year or so (even two years, if possible) this soil provided cultivation to some contraband articles.

**iv.** Whether any **Marker** can be penetrated in the **Soil Composition** in any manner (through water/pesticides/spray material) to indicate the exact origin of region of contraband article.

**v.** Whether Carbon Dating or other similar modern techniques can be used in tracing the origin of place of cultivated crop and whether any soil left over the body of plant can be matched with the original soil where crops were likely to be cultivated.

**8.** It appears that National Forensic Science University, Gandhi Nagar would also be of much help in the cause because it is a Nodal Institution for matters related to NDPS Act and related subject. Their expertise and input would be useful and relevant.

**9.** Learned Additional Advocate General is directed to coordinate with NFSU, Gandhi Nagar and Vice Chancellor/Campus Director in this regard.

**10.** At the joint request of parties, matter is placed on **22.04.2024** for further

orders.

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**(ANAND PATHAK)  
JUDGE**

