



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION NO. 1034 OF 2026

BETWEEN:

IRFAN PASHA @ KALU
S/O LATE EJAZ,
AGED ABOUT 34 YEARS,
R/AT #1, NEAR AKSA MASJID,
B.G.ROAD, PILLAGANAHALLI,
BANGALORE-560 100.

ALSO AT:
NEAR PUTTAMMA LAND,
KOLI FARM GATE,
BIRAVARADAHALLI VILLAGE,
BIRAVARADAHALLI,
BENGALURU CITY.

...PETITIONER

(BY SMT. SWATHI R. BHAT, ADVOCATE FOR
SMT. JAYANTHI R., ADVOCATE)

AND:

STATE OF KARNATAKA
BY KALASIPALYA POLICE STATION,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE-560 001.

...RESPONDENT

(BY SRI. RAHUL RAI K., HCGP)



THIS CRL.P IS FILED U/S 439 CR.PC (FILED U/S 483 BNSS) PRAYING THAT THE PETITIONER WHO IS ARRAYED AS ACCUSED NO.1 MAY KINDLY BE RELEASED ON BAIL IN CONNECTION WITH CRIME NO.3/2025 (SPL.CC.NO.1094/2025) PENDING BEFORE THE XXXIII ADDL. CITY CIVIL AND SESSIONS JUDGE AT BANGALORE (CCH-33) PERTAINING TO THE KALASIPALYA POLICE STATION FOR THE OFFENCES PUNISHABLE UNDER 8(c), 20(b)(ii)(C) OF NDPS ACT.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

ORAL ORDER

Petitioner is seeking bail in Cr.No.3/2025 of Kalasipalya Police Station, Bengaluru City, registered for the offence punishable under Section 20(b)(ii)(C) of NDPS Act, 1985.

2. Heard the learned counsel for petitioner and the learned HCGP for the State and perused the material on record.



3. Petitioner was arrested on 06.01.2025 in connection with the above crime registered against him and since then he is in judicial custody.

4. It is the case of prosecution that, on 6.1.2025 at about 4.10 p.m., the PSI of Kalasipalya Police Station, while patrolling on Kalasipalya Main Road, received a credible information that a person is selling ganja in an autorickshaw near Tippu Armory, 2nd Cross, Dispensary Road, within the jurisdiction of Kalasipalya Police Station. Based on the said information, he went to the spot and noticed a person in an autorickshaw with two bags of ganja in his possession. On confirming that he was selling ganja to the public, FIR was registered and accused was arrested at about 6.00 p.m., and from his possession 11 bundles each containing approximately 3 kgs. of ganja and in all 34 kgs. 250 grams of ganja was seized.

5. Petitioner had approached this Court in Crl.P.No.11504/2025 to enlarge him on bail. The said petition was dismissed vide order dated 09.09.2025.



6. This Court, while rejecting the earlier petition noticed that as per the complaint averments commercial quantity of ganja was recovered from the petitioner and mahazar was drawn in the presence of panchas and further that he has criminal antecedents, as there are about 44 cases registered against him.

7. The instant petition is filed giving more details about the case and on the ground that the mandatory provisions as contemplated in the NDPS Act, while conducting seizure was not followed.

8. Learned counsel for the petitioner would contend that according to prosecution, 11 bundles allegedly containing ganja were seized but as per the inventory drawn, only 2 packets of 100 gms. each were taken as sample for FSL examination and therefore, samples from each of the 11 bundles were not taken. It is also contended that immediately after the seizure, contraband was not produced before the learned Magistrate, on the other hand, there is an inordinate delay



in drawing the inventory as well as forwarding the sample to the FSL. She contends that violation of the mandatory provisions are fatal to the prosecution and on that ground the petitioner is entitled for bail. She submits that the petitioner will undertake to abide by any conditions and since the investigation is completed and charge sheet has been filed, he may be enlarged on bail.

9. Learned HCGP contended that already the prayer for bail was rejected by this Court and there are no changed circumstances. He further contended that the petitioner is involved in as many as 44 criminal cases and therefore, he is a habitual offender and if he is enlarged on bail he will once again involve in criminal activities. Therefore, sought to reject the petition.

10. A careful perusal of the FIR averments and seizure mahazar go to show that 11 bundles containing ganja were allegedly seized from the possession of the petitioner on 06.01.2025. The samples from each bundle were not taken for FSL examination. As per mahazar, one



bundle was opened and it was found to be ganja and then the entire contraband was put in two bags, from which 100 gms. each were collected for FSL examination. Inventory was drawn by the learned Magistrate under Section 52A of the NDPS Act on 31.01.2025 i.e., after 25 days. Though the inventory is shown to have drawn on 31.01.2025, the samples were received at the FSL on 06.02.2025.

11. In this case, it is alleged that the petitioner is involved in several criminal cases, however, it is not the case of prosecution that the earlier cases registered against him are under the NDPS Act.

12. The Hon'ble Apex Court in the case of **Abhimanue Etc. v. State of Kerala** reported in **2025 SCC online SC 2037** has held in paragraph 23 as under:

"23. Our attention was also invited to the status report filed by the State, to indicate the various criminal antecedents of the appellants. Suffice it to say, however, that such antecedents by themselves cannot constitute a ground for denial of bail. In this context, a useful



reference may be made to the decision of a coordinate Bench of this Court in Ayub Khan v. State of Rajasthan⁷ of which one of us (Augustine George Masih, J.) was a member. The relevant paragraph therefrom is extracted below:

10. The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong prima facie case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents.....”

13. The learned counsel for petitioner has contended that the petitioner has been implicated in false



cases and he is ready to abide by any conditions which may be imposed.

14. Petitioner was arrested on 06.01.2025 and is in judicial custody for more than one year. Investigation is completed and charge sheet is already filed.

15. In this case, there is an inordinate delay in sending the seized articles to the learned Magistrate for drawing inventory and also sending the sample to the Officer. Further, as contended by the learned counsel for the petitioner, it is not shown in the mahazar that the samples were taken from each bundle to be tested at FSL. Hence, without expressing any view on the merits of the case, the petitioner who is in custody for more than 1 year can be admitted to bail by imposing stringent conditions. Accordingly, the following:

ORDER

I. Petition is ***allowed***.



II. Petitioner/accused No.1 in Crime No.3/2025 of Kalasipalya Police Station, pending in Spl.CC.No.1094/2025 on the file of the Court of XXXIII Additional City Civil and Sessions Judge (NDPS), Bengaluru, shall be enlarged on bail, subject to following conditions:

1. He shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for the likesum to the satisfaction of the jurisdictional Court.
2. He shall furnish his residential address and shall inform the Court, if there is change in the address.
3. He shall not directly or indirectly tamper with the prosecution witnesses.
4. He shall not indulge himself in committing any offence.
5. He shall appear before the trial Court regularly on all dates of hearing.
6. He shall mark his attendance before the jurisdictional police station on 1st and 15th



of every month, till conclusion of the trial
or until further orders.

Violation of any of the conditions shall result in
cancellation of bail.

The observations made in the order shall be confined
to the disposal of the petition.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE