



NC: 2026:KHC:51753
CRL.P No. 12972 of 2026

CNR: KAHC010579742026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 21ST DAY OF SEPTEMBER, 2026
BEFORE
THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY
CRIMINAL PETITION NO. 12972 OF 2026

BETWEEN:

MR. YUSUF B
SON OF BUHARI
AGED ABOUT 43 YEARS
R/AT NO.83, 2ND STREET
NETHAJI NAGAR
TONDIARPET, CHENNAI
TAMIL NADU - 600 081.

...PETITIONER

(BY SRI RAJANNA B.C, ADV.)

AND:

UNION OF INDIA
NARCOTICS CONTROL BUREAU
BANGALORE ZONAL UNIT
BENGALURU - 560 063
REPRESENTED BY SPL.P.P.
HIGH COURT, COURT COMPLEX
BENGALURU - 560 001.

...RESPONDENT

(BY SRI MADHU N RAO, SPP)

THIS CRL.P IS FILED U/S 439 CR.PC (FILED U/S 483 BNNS)
PRAYING TO ENLARGE THE PETITIONER/ACCUSED NO.2 ON BAIL IN
NCB F NO.48/1/26/2025/BZU FOR THE ALLEGED OFFENCES P/U/S
8(c) R/W 20(b)(iii)(c), 23(c), 28, AND 29 OF NDPS ACT 1985 WHICH
IS PENDING ON THE FILE OF XXXIII ADDL.CITY CIVIL AND
SESSIONS JUDGE AND SPL. JUDGE (NDPS) BENGALURU IN THE
ABOVE CASE.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

Digitally signed
by NANDINI M
S

 HIGH
COURT OF
KARNATAKA



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ORAL ORDER

1. Accused No.2 in Spl.C.C.No.57/2026 pending before the Court of XXXIII Addl. City Civil & Sessions Judge & Special Judge (NDPS), Bengaluru, arising out of NCB Cr.No.48/1/2026/2025/BZU for the offences punishable under Sections 8(c) R/w Section 20(b(ii)(c), 23(c), 28 & 29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'NDPS' Act) is before this Court in this petition filed under Section 483 of BNSS, 2023 seeking regular bail.

2. Heard the learned counsel appearing for the parties.

3. Based on credible information received, officers of respondent have intercepted three persons on 09.10.2025 at Kempegowda International Airport in Bengaluru and from their possession contraband article allegedly Hydroponic Ganja weighing 45.4 Kgs and Psilocybin mushrooms weighing 6 kgs were recovered and seized under panchanama. Subsequently, apprehended accused were arrested and remanded to judicial custody. Petitioner is arrayed as accused no.2 in remand application. After completing investigation, complaint is now



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filed against three persons and the petitioner is arrayed as accused no.2 in the same. His bail application before the Trial Court in Crl.Misc.No.7043/2026 was rejected on 06.08.2026. Therefore, he is before this Court.

4. Perusal of the material on record would go to show that on 09.10.2025 at about 7.30 hrs, the officers of the respondent received credible information that three persons who were travelling to Bengaluru from Colombo were in possession of contraband article. Accordingly, accused nos.1 to 3 named in the present case were intercepted in the Kempegowda International Airport and from their possession contraband article allegedly Hydroponic Ganja totally weighing 45.4 Kgs and Psilocybin mushrooms totally weighing 15.6 kgs were recovered and seized under panchanama. From the trolley bag of accused no.1, 15.6 kg of Hydroponic Ganja and 1.4 kg of Psilocybin mushrooms was recovered. From the trolley bag of accused no.2, 15.8 kgs of Hydroponic Ganja and 2.6 kgs of Psilocybin mushrooms and from the trolley bag of accused no.3, four kgs of Hydroponic Ganja and 2 kgs of Psilocybin mushrooms was recovered.



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5. According to the prosecution, accused persons had all conspired with each other and had brought the aforesaid contraband articles to India for the purpose of selling the same. It is under these circumstances, Section 29 of the Act has been invoked in the present case against the accused persons. This Court in the case of **JAFAR ALI IQBAL V. UNION OF INDIA BY INSPECTOR OF CUSTOMS AIR INTELLIGENCE UNIT IN CRIMINAL PETITION NO. 9787 OF 2026 C/W CRIMINAL PETITION NO.9868 OF 2026, CRIMINAL PETITION NO. 9874 OF 2026** under similar circumstances in paragraph nos.6 to 13 has observed as follows: -

"6. The NDPS Act is enacted with a view to make stringent provisions for the control and regulation of operations, trafficking, funding, etc., relating to narcotic drugs and psychotropic substances. Sections 2(viid), 2(xiv) & 2(xxiii) of the NDPS Act, defines the words 'controlled substance', 'narcotic durg' and 'psychotropic substance', respectively. The same reads as under:

"2(viid) "controlled substance" means any substance which the Central Government may, having regard to the available information as to is possible use in the production or manufacture of narcotic drugs or psychotropic substances or to the provisions of any International Convention, by notification in the



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Official Gazette, declare to be a controlled substance.

2(xiv) "narcotic durg" means coca leaf, cannabis (hemp), opium, poppy straw and includes all manufactured drugs.

2(xxiii) "psychotropic substance" means any substance, natural or synthetic, or any natural material or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule."

7. The punishment for violating the provisions of the NDPS Act, depends on the quantity of contraband article recovered from the accused or involved in the case. Section 2(via) and Section 2(xxiii) defines the words 'commercial quantity' and 'small quantity' in relation to the contraband article. In exercise of the powers conferred under the NDPS Act, notification specifying "small quantity" and "commercial quantity" is issued by the Central Government and the same is the basis for the purpose of quantum of punishment for the offences under the provisions of the NDPS Act.

8. The seized contraband article in the present case is hydroponic ganja which is not defined in the NDPS Act. Section 2(iii)(b) of the NDPS Act defines 'ganja', and the same reads as under:

"2(iii)(b) ganja, that is, the flowering of fruiting tops of the cannabis plant (excluding the



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seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated."

8. *The word "cannabis plant" is defined under Section 2(iv) of the NDPS Act, which reads as under:
"2(iv) "cannabis plant" means any plant of the genus cannabis."*

9. *Cannabis is included in the definition of "narcotic drug", and chemical examination of cannabis has revealed that it contains a psychotropic substance known as Tetra Hydro Cannabinol which is included in the list of psychotropic substances specified in the Schedule given to the NDPS Act. Tetra Hydro Cannabinol (THC) is considered as the most psychotropic active component contributing to the behavioral toxicity of cannabis. If the THC is higher, the health effects are severe. Cannabis that contain very low amount of THC is considered as hemp, and if there is higher THC, it is considered as Marijuana. Bhang, Ganja, Charas, Hashish, Hydroponic Ganja, etc., are forms of Marijuana having different THC. The THC of hydroponic ganja is found to be comparatively higher than the THC found in "ganja" as defined under Section 2(iii)(b) of the NDPS Act.*

10. *Hydroponic ganja or hybrid ganja is artificially grown in controlled environment with water rather than soil. The comparative study would reveal that THC in normal ganja is 1/3rd of the THC found in*



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hydroponic ganja or hybrid ganja. If the strength of THC is higher, the effect of consumption is also more harmful. Depending upon the THC of substance, it is valued. Therefore, the value of hydroponic ganja compared to ganja or other products of cannabis is much higher. However, in the notification issued by the Central Government, in exercise of its power under the NDPS Act, specifying small quantity and commercial quantity of narcotic drugs and psychotropic substances, hydroponic ganja is not included, and therefore, though the potent and value of hybridponic ganja is much higher than regular ganja, for the purpose of punishment the entry at Sl. No.55 in the aforesaid notification which relates to ganja is taken into consideration.

11. According to the prosecution, this loophole is being exploited by the accused persons who deliberately carry bags containing hydroponic ganja weighing less than 20 Kgs. which would be considered as intermediate quantity, though the potent and value of the said contraband article is much higher.

12. This Court has noticed that there is a massive increase in these types of cases, where the accused are apprehended on their arrival from Thailand carrying hydroponic ganja. It is brought to the notice of this Court that having regard to the aforesaid modus operandi, courts have been releasing the accused on the ground that seized contraband article is not of



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commercial quantity, unmindful of the harm it is causing to the society.

13. Punishment for the alleged offences is one of the factors to be considered by courts while considering the bail application and it cannot be the sole factor. Courts are the guardians of rule of law and interest of the society is the paramount consideration while considering the bail application of an accused. Hydroponic ganja has a much higher THC compared to ganja and its value is also much higher. Therefore, the harm caused to the society would also be much higher and this important aspect cannot be lost sight of by the courts while considering the bail application of the accused in a case which involves hydroponic ganja. Courts are required to be conscious while considering the bail application of the accused who try to take advantage of the loopholes in the law. Interest of the Society shall always be the prime concern of the courts when pitched with the right to liberty of an accused. The quantity of hydroponic ganja or hybrid ganja, which is a new variant of cannabis brought to our country and the menace caused by it is of serious concern and it needs to be curbed. Therefore, merely for the reason that accused is found in possession of intermediate quantity of hydroponic ganja, he cannot be granted bail".



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6. The petitioner and other accused persons in the present case hail from Tamil Nadu State. The accused persons were found in possession of commercial quantity of contraband article. Therefore, the rigor under Section 37(1)(b) of the NDPS Act gets attracted against the accused persons in the present case. The sample of contraband article allegedly hydroponic ganja has tested positive to a drug known as "cannabis".

7. Considering the menace caused by illegal trafficking of drugs, I am of the opinion that the prayer made by the petitioner for grant of regular bail cannot be entertained at this stage.

8. Accordingly, criminal petition is dismissed.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE