



\$~2

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1097/2026**

**PAWAN YADAV**

.....Petitioner

Through: **Mr. Pramod Kumar, Advocate.**

versus

**THE STATE OF NCT OF DELHI**

.....Respondent

Through: **Mr. Yudhvair Singh Chauhan, APP.  
SI Chandra Shekhar, P.S.  
ANS/West.**

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

**% 21.07.2026**

1. By way of this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks regular bail in connection with FIR No. 654/2024, dated 10.12.2024, registered at P.S. Janak Puri, Delhi, under Sections 20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ["NDPS Act"].

2. I have heard Mr. Pramod Kumar, learned counsel for the petitioner, and Mr. Yudhvair Singh Chauhan, learned Additional Public Prosecutor for the State. The prosecution has placed on record a status report.

3. The case of the prosecution, as it emerges from the status report, is as follows:

- a. On 10.12.2024, at about 7:45 AM, secret information was received regarding illegal trafficking and supply of *Ganja* by the petitioner,



alongwith co-accused Vikas Yadav.

- b. After compliance with Section 42 of the NDPS Act, at about 10:35 AM, two persons carrying bags on their shoulders, were identified by the secret informer near the gate of Ramlila Maidan, Janakpuri. Both persons were apprehended and were identified as the present petitioner and co-accused Vikas Yadav.
- c. Notices under Section 50 NDPS Act were duly served upon them, and their legal rights were explained. Both accused declined the offer to be searched before a Gazetted Officer.
- d. During search, packets containing leafy, seedy, grassy, and smelly substance were recovered.
- e. The samples were drawn in accordance with Section 52A of the NDPS Act, and the FSL report confirmed the substance to be *Ganja*.
- f. 14.792 Kg *Ganja* was recovered from the petitioner, and 6.228 Kg *Ganja* was recovered from co-accused Vikas Yadav. Thus, the total recovery was of 21.020 Kg *Ganja*.
- g. Based on the above, the said FIR was registered, and both the accused were arrested.
- h. During their personal search, two train tickets dated 09.12.2024, from Simri Bakhtiyarpur Bihar to Anand Vihar Terminal, New Delhi, were recovered.
- i. During investigation, CDR analysis was conducted, which revealed continuous telephonic communication between the petitioner and co-accused Vikas Yadav. Investigation also revealed that both accused travelled together.



- j. A chargesheet has been filed, and the matter is pending at the stage of prosecution evidence.
- k. Bail application filed by the co-accused Vikas Yadav [BAIL APPLN 2679/2025] has already been dismissed by this Court *vide* order dated 27.08.2025.
4. The Nominal Roll reflects that, as of 29.03.2026, the petitioner had been in judicial custody for a period of 1 year 3 months and 20 days. He has thus now been in custody for a period of over 1 year 7 months.
5. The petitioner's latest bail application was dismissed by the Special Court *vide* order dated 27.02.2026 on the ground that the quantity recovered was commercial in nature, and subject to the rigours of Section 37 of the NDPS Act. The argument that grounds of arrest had not been supplied was also rejected.
6. Mr. Kumar submits that, even if the prosecution case is accepted at its highest, the total recovery, after clubbing, is only 21.020 kg of the alleged contraband, which is marginally above the commercial quantity of *Ganja* [20kgs]. He submits that the Seizure Memo itself records that the recovered material comprised of “उनमे से पत्तीदार, बीजयुक्त, बदबूदार, घासनुमा पदार्थ बरामद हुआ”, which can be translated to ‘*leafy, seed-bearing, smelly, grass-like substance*’. Thus, the recovered material does not, in its entirety, fall within the statutory definition of *Ganja* under the NDPS Act. He further submits that the entire recovered substance was weighed, alongwith leaves and stalks, which do not constitute *Ganja* within the meaning of Section 2(iii)(b) of the NDPS Act. In support of this submission, learned counsel places reliance on the decisions of the



Coordinate Benches of this Court in *Ravina Kumari v. the State (NCT of Delhi)*<sup>1</sup> and *Ashok Kumar v. State Govt. of NCT of Delhi*<sup>2</sup>, as well as a judgment of this Court in *Manjay Kumar v. State NCT of Delhi*<sup>3</sup>.

7. Mr. Kumar further submits that the petitioner has no prior criminal antecedents. He submits that the petitioner has remained in judicial custody for over 1 year and 7 months, and charges have already been framed. The matter is presently pending at the stage of prosecution evidence. Out of a total of 23 prosecution witnesses, only 2 witnesses have been examined thus far. In these circumstances, the trial is not likely to conclude in the near future.

8. Mr. Chauhan, on the other hand, submits that the FSL report has already been received, which confirms that the sampled contraband is “ganja” within the meaning of the NDPS Act. The quantity of *ganja* seized being over 20 kg, he submits that the rigours of Section 37 of the NDPS Act would apply. Mr. Chauhan also submits that this Court has already dismissed a regular bail application filed by co-accused Vikas Yadav *vide* order dated 27.08.2025 in BAIL APPLN. 2679/2025.

9. The definition of “ganja” as provided in Section 2(iii)(b) of the Act, reads as follows:

“(b) *ganja*, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated;”

10. In the present case, the Seizure Memo dated 10.12.2024 records

---

<sup>1</sup> BAIL APPLN. 1256/2024, decided on 20.09.2024 [hereinafter, “*Ravina Kumari*”].

<sup>2</sup> BAIL APPLN. 2962/2025 and connected matter, decided on 21.11.2025 [hereinafter, “*Ashok Kumar*”].

<sup>3</sup> BAIL APPLN. 4206/2025 and connected matter, decided on 19.03.2026 [hereinafter, “*Manjay Kumar*”].

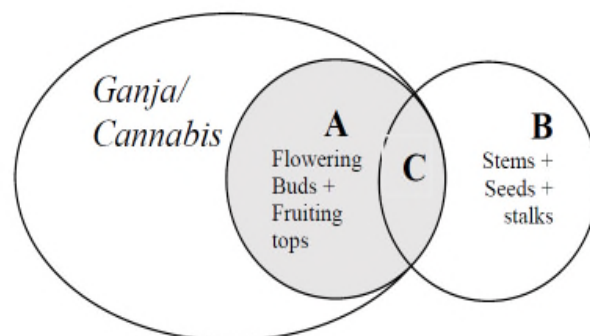


that the bag contained "leafy, seed-bearing, smelly, grass-like substance", which appeared to be *ganja* by smell and sight. The FSL report dated 13.12.2024 found the substance to be "*Ganja (Cannabis)*".

11. The order/judgments of this Court, cited by Mr. Kumar, deal with similar situations where the seized substance comprise a mixture of "*flowering buds and fruiting tops*", as well as other materials like leaves, stems, seeds, and stalk. The judgment in *Ravina Kumari* analyses the definition of "*ganja*" as follows:

*"17. From the definition, it is evident that flowering buds and fruiting tops of the cannabis plant would be covered under section 2 (iii)(b) but merely leaves /seeds and stalks would not form a part of the definition of "Ganja" unless accompanied by the flowering and fruiting tops.*

*18. This can be represented accurately by the below Venn diagram:-*



*19. Thus, the intention of the Legislature appears to be clear that in case of Ganja, if it is merely **Category A** i.e. a homogenous mixture of flowering buds and fruiting tops, then the same would fall within the meaning of "Cannabis", however, if it is merely **Category B** i.e. a homogenous mixture of seeds/leaves/stalks without the fruiting tops and buds, then the same would not attract the provisions of the NDPS Act.*

*20. Though the position with respect to homogenous mixtures i.e. **Category A & B** is clear, there is often a conundrum surrounding the quantification of **Category C**, i.e. the overlap between Category A and Category B constituting the heterogenous mixtures which include both the flowering tops and fruiting buds, along with the stems/ leaves and seed.*

*21. From the framework of the entire NDPS Act and a reading of S. 2*



(iii)(b), it emerges that if the material seized is a heterogenous mixture/Category C, constituting of Category A mixed with Category B, the placebo material such as stalks/leaves/stems (Category B) would not constitute an actual part of the drug and only the actual content and weight of the narcotic drug (Category A) would be relevant for determining whether it would constitute small quantity or commercial quantity.

XXXX

XXXX

XXXX

XXXX

26. Pertinently, the recovered quantity of about **24.145 Kg** was just 4.145 kgs more than the commercial quantity. Since, the entire substance including stems/stalks and dried leaves were weighed together without quantifying the weight of the flowering or fruiting tops, the quantity of 'Ganja' seized from the Applicant may be less than **commercial quantity** so as to attract Section 20 of the NDPS Act. The weight of actual Ganja recovered is a matter of trial.

27. It has been consistently held that if there is a prima facie discrepancy in what was seized and what was analysed and weighed and there are reasonable grounds to believe that the petitioner is not guilty of offences dealing in commercial quantity. Consequently, the rigors of Section 37 of the NDPS Act, 1985 for grant of regular bail, would not become applicable as has been held in the case of Ibrahim Khwaja Miya Sayyed (Supra).

28. In the case of Suresh Kumar (Supra), the Coordinate Bench of this Court gave benefit to the accused under Section 20 (b) (C) to 20 (b)(ii)(B) by observing that the weight of the contraband was not precise and the actual quantity of Ganja seized could not be determined because the FSL reflected that seeds, which do not come within the definition of Ganja, were weighed along with the flowering and fruiting tops. Thus, when there is a doubt on the actual amount of recovery of contraband, then this unexplained discrepancy would result in a benefit accruing in favour of the bail applicant.

29. Similar observations have been made in the case of Rajesh Sharma (Supra), Bettanayaka (Supra), Ratanlal (Supra) and Ratnesh (Supra).

30. **In light of the above discussion, it is settled that if there is the discrepancy in weight, as in the present case, the same would be a matter of trial."**

12. The same view was taken in *Ashok Kumar* and followed in *Manjay Kumar*.

13. Applying the binding judgment of this Court in *Ravina Kumari* to the facts of the present case, it is evident that the materials seized were



not comprised only of “*flowering or fruiting tops*”, as the Seizure Memo itself refers to “*leafy, seed-bearing, smelly, grass-like substance*”. The weight of the contraband is 21.020 Kgs, which is only marginally in excess of the threshold of commercial quantity of *Ganja* [20 Kgs and above]. In a similar situation, this Court in *Ravina Kumari* and *Ashok Kumar* granted bail, holding that the application of Section 37 of the NDPS Act was rendered doubtful. In *Manjay Kumar* also, this aspect was referred to, in addition to a finding that the sampling procedure adopted was *prima facie* not in consonance with the requirement of the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022.

14. In view of the above decisions, it follows that the weight of the actual contraband, as statutorily defined – i.e., the “*flowering and fruiting tops*” alone – may well be less than the commercial quantity of 20 Kgs. This casts a doubt on the applicability of Section 37 of NDPS Act itself.

15. Mr. Chauhan's reliance on the order of this Court rejecting the bail application of the co-accused also does not persuade me. A substantial period has lapsed since the said order was passed, almost eleven months ago. Moreover, the contention regarding the statutory definition of *Ganja* under the NDPS Act, which has been specifically urged in the present case, was neither raised nor considered in the said order.

16. The petitioner has now remained in judicial custody for over 1 year and 7 months, and charges have already been framed. The matter is at the stage of prosecution evidence, and only 2 witnesses have been examined so far, out of a total of 23 witnesses. In these circumstances, the trial is not likely to conclude in the near future.



17. Having regard to the above factors, it is directed that the petitioner be released on bail in connection with FIR No. 654/2024, dated 10.12.2024, registered at P.S. Janak Puri, Delhi, under Sections 20/29 of the NDPS Act, subject to furnishing a personal bond in the sum of Rs. 25,000/-, with one surety in the like amount, to the satisfaction of the concerned Trial Court/Duty Magistrate, and further subject to the following conditions:

- a. The petitioner shall appear before the Special Court on each and every date of hearing.
- b. The petitioner shall ordinarily reside at the address as per prison records, and shall not change the address without informing the concerned Investigating Officer [“IO”]/Station House Officer [“SHO”].
- c. The petitioner shall furnish his mobile number to the concerned IO/SHO, and shall ensure that the said mobile number remains operational and switched on at all times. The mobile number shall not be changed, nor shall the phone be switched off, without prior intimation to the IO/SHO.
- d. The petitioner shall not, directly or indirectly, contact, nor visit, nor offer any inducement, threat, or promise to any of the prosecution witnesses or other persons acquainted with the facts of the case.
- e. The petitioner shall not, directly or indirectly, tamper with evidence nor otherwise indulge in any act or omission that would prejudice the proceedings in the pending trial.
- f. The petitioner shall not commit any offence during the pendency of the proceedings.



18. The bail application is disposed of in terms of the above.
19. It is clarified that the observations made herein are solely for the purpose of adjudication of the present bail application, and shall not be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of the proceedings.
20. A copy of this order be sent to the concerned Jail Superintendent for information and necessary compliance.

**PRATEEK JALAN, J**

**JULY 21, 2026**  
**'B/AD'/'**