



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 689 OF 2025

MUNNA SATILAL PAWARA

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mrs. Agrawal Rani Kailas

APP for Respondent/State : Mr. V. M. Kagne

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CORAM : MEHROZ K. PATHAN, J.

DATE : 13th NOVEMBER 2025

PER COURT :

1. The Applicant has approached this Court, praying for regular bail in connection with Crime No.158/2023 registered with the Jalgaon Taluka Police Station, Taluka and District Jalgaon for the offences punishable under Section 20(2)(G) of the Narcotic Drugs And Psychotropic Substances Act, 1985.

2. The case of the prosecution is that the Informant has alleged that on 17.06.2023 the police received information that a few persons were illegally carrying 'Ganja' for sale on a motorcycle bearing No. MH-19/T-2130. Accordingly, an entry of the information was taken, and a letter seeking permission for action was submitted to the Sub-Divisional Police Officer, Jalgaon, on 18.06.2023. Permission was thereafter granted. The police staff, along with Gazetted Officer P.S.I. Shailesh Bhatu Patil and Dy. S.P. Shri Appaso Pawar, proceeded to the spot of the incident, namely Malapurkhedi

Bhokar–Erandol State Highway. The presence of two independent panch witnesses was secured. During patrolling and checking of vehicles, they found the Applicant riding a motorcycle carrying two bags on either side and one bag on the seat. Initially, the Applicant attempted to run away. It is the case of the prosecution that on 18.06.2023 at about 3.45 a.m., the Applicant was found in possession of 65 kg 540 grams of ‘Ganja’ illegally carried on the motorcycle. Accordingly, an offence came to be registered.

3. It is the submission for the Counsel for the Applicant that the Applicant was though allegedly found in possession of the contraband Ganja admeasuring 65 Kg 540 grams, however the Applicant is not having any criminal antecedents to his credit. It is submitted that there is a discrepancy in the inventory prepared by the prosecution as well as in the panchanama conducted by the prosecution. The inventory does not make a detailed mention of the contraband ‘Ganja’ which was sealed, whereas the panchanama shows that the said contraband also includes fruit tops along with the leaves of the ‘Ganja’. Thus, having regard to the lacunae in the prosecution case, the Applicant has a good case and there is every likelihood that he may be acquitted of the offence. He is arrested on 18.06.2023 and has put in almost two and half years of imprisonment. The trial has not yet commenced and will take its own time to conclude and as such the further detention of the Applicant would amount to a pre-trial punishment, hence the Applicant may be released.

4. As against this, the learned APP submits that the Applicant was caught red-handed with a commercial quantity of contraband 'Ganja' weighing 64 kg 540 grams, on a motorcycle bearing registration No. MH-19/T-2130, pursuant to a tip-off received by the police authorities. Though there are no criminal antecedents as against the Applicant, however there is every likelihood that the Applicant may again commit offences of like nature. He further submits that there is a statutory bar under Section 37 of the NDPS Act, which requires the Court to record its satisfaction that the Applicant is not guilty of the offences under the Act and that he is not likely to commit any offence after being released. He therefore prays that the application be rejected.

5. I have gone through the entire charge-sheet. The status of the trial has also been placed on record by the learned Counsel for the Applicant, which shows that even though the charge was framed long back, there has been no progress in the trial, as not a single witness has been examined.

6. Insofar as the bar under Section 37 of the NDPS Act is concerned, the same would not restrict this Court from releasing the Applicants on the ground of delay in trial, as has been held by the Hon'ble Supreme Court in various judgments, including **Union of India v. K.A. Najeeb**, (2021) 3 SCC 719. In the said judgment, it has been held that even the identical statutory restrictions of a more stringent law under Section 43-D(5) of the UAPA would not prevent

the Court from considering the period of incarceration and the unlikelihood of the trial being completed in the near future, since the right to liberty and access to speedy justice enshrined under Article 21 is a fundamental right available to undertrials. Similarly, in **Shaikh Javed Iqbal v. State of U.P.**, the Court has held that the restrictive bail provisions in special statutes, such as Section 43-D(5) of the UAPA, do not oust the jurisdiction of constitutional courts to grant bail on the ground of violation of Part III of the Constitution of India.

7. It would also be apposite to refer to the judgment of the Hon'ble Supreme Court in the case of **Union of India Vs. Shiv Shanker Kesari** 2077 (SC) 798 wherein the Hon'ble Supreme Court was pleased to observe that while considering the application for bail with reference to Section 37 of NDPS Act, the Courts are not called upon to record a finding of not guilty. However, the Courts are only required to record that there are reasonable grounds for believing that the accused is not guilty and to record satisfaction about the existence of such circumstances. Be that as it may, as observed earlier, the statutory bar itself would not preclude the Court from considering the ground of delay in trial. In the present case, Applicant has been under arrest since 18.06.2023, and about 30 witnesses have been cited by the prosecution for examination. Not a single witness has been examined till date. Insofar as the alleged discrepancies in the inventory seizure of contraband Ganja is concerned, I restrain myself from making any observations on merits, as the same may prejudice prosecution at trial. However, the present

Applicant has made out a case on the ground of delay in trial, and taking into consideration that the Applicant has no criminal antecedents, I am therefore inclined to exercise discretionary powers under Section 483 of the B.N.S. to release the Applicant on bail, subject to the following conditions. Hence, the following order :

ORDER

- (a) The Bail Application is allowed.
- (b) The Applicant – Munna Satilal Pawara, be released on bail on furnishing P.B. of Rs.25,000/- (Rupees Twenty Five Thousands) with solvent surety of the like amount, in connection with Crime No.158/2023 registered with the Jalgaon Taluka Police Station, Taluka and District Jalgaon for the offences punishable under Section 20(2)(G) of the Narcotic Drugs And Psychotropic Substances Act, 1985, on the following conditions:
 - (i) The Applicant shall not indulge into any other offences of like nature and a single incident of involvement in identical offences under the NDPS Act would entitle the prosecution to seek cancellation of bail.
 - (ii) The Applicant is directed to attend the concerned police station and report to the Investigating Officer between 10:00 a.m. to 12:00 p.m. on 1st day of each month till framing of charge.
 - (iii) The Applicant shall attend each and every date of the trial Court without fail unless exempted by the trial Court on emergent consideration.
 - (iv) The Applicant shall not pressurize the prosecution

witnesses and shall not tamper with the prosecution evidence, in any manner.

(v) The Applicant shall submit his Aadhar and PAN Card to the Investigating Officer and detailed addresses and phone numbers of himself and two of the near relatives.

(c) The Application stands disposed of accordingly.

MEHROZ K. PATHAN
JUDGE

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