



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

929 BAIL APPLICATION NO. 1137 OF 2025

**RUMALYA CHECHARYA ALIAS SHESARYA PAWRA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Mr. Jitendra V. Patil, Advocate for Applicant
Mr. N. B. Patil, APP for Respondents/State
....

CORAM : SANJAY A. DESHMUKH, J.

DATE : 03.10.2025

PER COURT :-

1. Heard.
2. This is an application for grant of regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Crime No.191 of 2024 registered at Chopda Rural Police Station, punishable under Sections 20 and 22 of the N.D.P.S. Act.
3. The learned advocate for the applicant pointed out the report in which it is averred by the police constable attached to Chopda Rural Police Station that a secret information was received stating that the applicant had cultivated Ganja plants in Compartment No.211. Acting upon the said information, the informant, along with other police officials, panch witnesses, and a photographer, conducted a raid. When the raiding party reached there, the applicant fled from the place. Upon

search, Ganja plants were found at the scene of the incident situated in Compartment No. 211 of village Melane, Taluka Chopda, District Jalgaon, which is allotted to the applicant by the State Government on lease basis. The Ganja plants, along with their leaves, branches, and roots, were uprooted, loaded into a tractor. Those were seized under a seizure panchanama. It was 370 kilograms. The value of the seized Ganja was estimated at Rs.7,000/- per kilogram. During the drawing of the seizure panchanama, and after about ten days of lodging of the report, the seized Ganja was again weighed and found to be 370 kilograms. A representative sample was taken and sent to the Chemical Analyser for examination. All necessary formalities were complied, and thereafter, the applicant was arrested.

4. The learned advocate for the applicant submitted that the applicant has been falsely implicated in the crime. He has no criminal antecedents. It is submitted that the land was allotted by the State Government to 22 persons on lease basis, including the applicant, whose name appears at serial no.22, for an area admeasuring 0.40 R for agricultural purposes. The other co-owners of the said compartment have not been made accused in the said crime. The charge sheet has been filed. He submitted that the inventory and seizure panchanama do not establish that the seized material is “Ganja” as defined under Section 2(b) of the

NDPS Act, 1985. It is not clarified whether the seeds and leaves were accompanied by the flowering or fruiting tops of the Ganja plants. In support of his submissions, he has relied upon an order passed by this Court in case of Ashok Kamsing Chavan @ Pawara Vs. The State of Maharashtra, in Bail Application No.2166 of 2024, order dated 23.01.2025, in which bail was granted when wet plant of Ganja of 140 kg, 530 gm were seized. It is lastly prayed to grant bail to the applicant.

5. The learned APP for the State strongly opposed the application and submitted that the applicant is involved in a serious crime under the NDPS Act. The applicant had cultivated Ganja in his land which he got under lease, which was seized from the land in his possession, and he has failed to give any satisfactory explanation in that regard. The learned APP pointed out the order granting the applicant's possession over 0.40 R land in Compartment No. 211 of village Melane, Taluka Chopda, District Jalgaon. From the charge-sheet, the learned APP further pointed out the photographs, statements of witnesses, and panchas supporting the prosecution's case. It is submitted that all the procedural formalities as contemplated under the NDPS Act have been duly complied with. Considering the serious nature of the crime and the fact that the quantity of Ganja seized is much more than the commercial quantity of 20 kilograms, therefore the applicant is not entitled to bail as per Section 37 of the NDPS Act. It is lastly prayed to

reject the application.

6. Perused the charge-sheet, particularly the report, inventory seizure panchanama and the documents showing possession of the applicant over compartment No.211 of village Melane, Tahsil Chopda, District Jalgaon. As far as the definition of “Ganja” is concerned, Section 2(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 reads as under:

“Ganja” means 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, and any mixture, with or without any neutral material, of any such tops, or any drink prepared therefrom.”

7. From the seizure panchanama and other panchanamas, it is not specifically clarified as to whether the seeds and leaves were accompanied by the flowering or fruiting tops of the Ganja plants which were seized. It is a matter of evidence. At this stage, it cannot be inferred that it is not Ganja. Further, at this stage, the evidence cannot be meticulously examined. The material placed on record prima facie indicates that the applicant had cultivated Ganja in the agricultural land in his possession. During raid he fled from that land when the raiding party reached there. Considering the net weight of the seized Ganja, which is 370 kilograms, it is evident that the

quantity involved is huge and far exceeds the commercial quantity prescribed under the NDPS Act. Hence, the applicant's prayer for grant of bail cannot be entertained though he has roots in the society. The possibility to commit same nature of crime again and pressurizing the prosecution witnesses cannot be ruled out. It is well settled that each case has to be decided on its own merits and the facts of each case are decisive. Therefore, the case law cited *Ashok Pawara Vs. State* (supra) relied by the applicant is not helpful to him, which is on different set of facts. In that case, only leaves of Ganja were seized. The facts in this case are different and seized material was Ganja. Considering all these reasons, the applicant is not entitled for bail on the facts and law. A case is not made out to grant bail to the applicant on the principle that bail is rule and jail is exception. Accordingly, the application deserves to be rejected and it is rejected.

[**SANJAY A. DESHMUKH, J.]**

HRJadhav