



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

BAIL APPLICATION NO. 2249 OF 2025

1. DANIAL TULSIRAM KANOJI
2. RAHUL MULCHAND RATHOD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Ms. Karishma S. Sarin
APP for Respondent : Ms. R. R. Tandale
...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 24-12-2025

PER COURT:-

1. The applicants seek regular bail in connection with Crime No.314 of 2025 dated 14.07.2025 registered with Karmad Police Station, District Chhatrapati Sambhajnagar, for the offences punishable under Sections 8(c), 20(b)(ii)(b) and 20(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "NDPS" Act).

2. Heard learned counsel for the applicants and the learned APP. Perused the papers.

3. The prosecution case is that, the narcotic raid was effected at DMIC square road, Karmad locality, wherein, the applicants were found selling Ganja worth of Rs.3,000/- for per 100 grams. On receipt of such secret information, police visited the spot with

gazetted officer and panch witnesses and necessary equipments needed at the time of effecting narcotic raid. When police team visited DMIC square road, they found applicants beneath the DMIC bridge.

4. The applicants were apprehended on the spot and during their search in presence of gazetted officer, 5-Kg 94-Gms Ganja was found in their possession concealed in black coloured plastic bag. The forensic team took sample from the seized Ganja and found it to be narcotic substance. After necessary compliance of section 50 of the NDPS Act, both the applicants/accused along-with seized Ganja were carried before the jurisdictional Magistrate, where inventory came to be prepared. The sample of seized Ganja was taken as per required procedure by sending it to chemical analyzer office for its analysis report. Both the applicants/accused presently are in judicial custody. They have moved an application for grant of bail on the ground of violation of section 52(A) of the NDPS Act. Hence, the first information report.

5. Learned counsel for the applicants submits that the applicants are innocent and falsely implicated in the crime. It is submitted that there is non-compliance of Section 52(A) of the NDPS Act. The seized quantity is less than that of commercial quantity. The investigation is complete and the samples of alleged contraband sent to Analysis. As such, nothing is to be recovered

at the instance of the applicants. Therefore, prayed to allow the application.

6. Learned A.P.P. has opposed the application and submitting that the applicants are found in possession of ganja. Subsequently, the recovery panchnama was carried out and sent for Chemical Analysis. There is prima facie sufficient material against the applicants to indicate their complicity in the crime. Hence, prayed to reject the application.

7. Upon considering the submissions of both the sides and perusing the material on record, including the charge-sheet, the learned JMFC has prepared the Inventory Certificate. The commercial quantity in relation to NDPS Act for contraband which is over and above 20 kgs. However, the expression 'ganja' defined in Section 2(b) and (c) as the flowering and 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 of the above forms of cannabis or any drink prepared therefrom.

8. The expression 'ganja' makes it abundantly clear that it refers specifically to the flowering or fruiting tops of the cannabis plant, excluding the seeds and leaves when they are not accompanied by the tops.

9. In the present case, as is evident from the FIR, what was found While, in the instant case, the weight of the contraband is 5.94 kgs. and 4.894 Kgs. found in two bags. Equally, the Certificate of Inventory in respect of seized muddemal as per Section 52(A)(3) of NDPS Act indicates that the packets and the envelopes were containing alleged contraband with stems, leaves and roots. Thus, the Inventory Certificate indicates that the seized contraband included the weight of other parts of the plant and not only the fruiting tops and leaves, as required under the NDPS Act. In these circumstances, *prima facie*, it is doubtful whether quantity can be said to be the same as is reported.

10. Also taking into account the seized contraband is well below the commercial quantity as well as the investigation is complete, I am inclined to exercise discretion in favour of the applicant.

11. Hence, the following order:-

ORDER

- (i) The bail application is allowed.
- (ii) Applicants, Danial Tulsiram Kanoji and Rahul Mulchand Rathod, be released on regular bail upon furnishing P.R. bond in the sum of Rs.1,00,000/- (Rs.One Lakh only) with one or two local solvent sureties each, in the like amount, in connection with Crime No.314 of 2025 dated 14.07.2025 registered with Karmad Police Station, District Chhatrapati Sambhajinagar, for the offences punishable under Sections

8(c), 20(b)(ii)(b) and 20(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, on the following conditions :-

- (a) After his release from jail, the applicants shall report to the Investigating Officer / Police station as and when called for till framing of the charge.
 - (b) The applicants shall attend the trial Court every month between 11.00 am to 1.00 pm. to mark his presence.
 - (c) Applicants shall co-operate with the conduct of trial and attend trial Court on all dates unless specifically exempted and will not take any unnecessary adjournment, if they do so, it will entitle the prosecution to apply for cancellation of this order.
 - (d) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court.
 - (e) The applicants shall not influence with any of the prosecution witnesses or tamper with the evidence, in any manner.
 - (f) Before their actual release from jail, the applicants shall furnish their address where he propose to reside after their release from jail, to the concerned Police Station and also to the Trial Court.
 - (g) In case of infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.
- (iii) Needless to states that the observations rendered herein are to the extent of this application and the trial court shall not be influenced by the same.

[SACHIN S. DESHMUKH, J.]