

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2148 OF 2025

Shri. Laxman Kundan Bhole and Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. Shreyas Purushottam Barsawade (Through VC) a/w Mr. Sanket Mane, learned Advocates for the Applicants.

Mr. Amit A. Palkar, learned A.P.P. for the State/Respondent.

CORAM : ASHWIN D. BHOBE, J.

DATE : 9th JULY 2025.

P.C. :

1. Heard Mr. Shreyas Barsawade, learned Advocate for the Applicants and Mr. Amit Palkar, learned A.P.P. for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicants are before this Court seeking regular bail in connection with Crime No. 43 of 2025 registered with Khed Police Station, Ratnagiri for the offences punishable under Sections 2(b), 20(b), 29 and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (“**NDPS Act**” for short).

3. Mr. Shreyas Barsawade, learned Advocate for the Applicants submits that the abovesaid crime is now registered as NDPS Special

Case No. 6 of 2025 and is pending on the file of learned Judge, Special Court, Khed.

4. Case of the prosecution is that the Applicants were caught red-handed while in possession of the contraband (ganja) of Rs. 31,197/- having quantity of 2 kgs. and 84 grms.

5. Applicants (Accused Nos. 1 and 2) were arrested on 18th February 2025 and since then they are in jail.

6. Mr. Shreyas Barsawade, learned Advocate submits that the contraband alleged to be seized from possession of the Applicants, does not satisfy the ingredients of Section 2(iii)(b) and (c) of the NDPS Act. He submits that even otherwise the contraband alleged to be seized from the possession of Applicants, is of a variable/intermediate quantity. He submits that the right of Applicants and more particularly of Applicant No. 2 is violated, as there is no compliance of Section 50(4) of the NDPS Act. To elaborate, he submits that Applicant No. 2 being a female, was required to be searched by a female police personnel. By pointing out to the search panchanama at page no. 58 of the paper-book, he submits that the bodily search of Applicant No. 2 was taken by male police personnel. He submits that the offer under Section 50 of the NDPS Act, was made to the Applicants jointly, as such the same violates the provisions of Section 50 of the NDPS Act.

7. Mr. Amit Palkar, learned A.P.P. for the State/Respondent submits that Section 50 of the NDPS Act would not apply to Applicant No. 1 as the contraband was found in the bag. He submits that Applicant No. 1 has similar criminal antecedents. He

does not dispute that the quantity of contraband in the present crime is intermediate.

8. I have perused the records with the assistance of learned Advocates of the parties.

9. There is no dispute that commercial quantity in relation to NDPS Act for 'ganja' means any quantity greater than 20 kgs. Section 2(iii)(b) and (c) of the NDPS Act defines 'Ganja' as 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 of the above forms of cannabis or any drink prepared therefrom. Thus, the definition of term 'Ganja' defines and clarifies that 'Ganja' is the flowering or fruiting tops of the cannabis plant excluding the seeds and leaves when not accompanied by the tops.

10. In the present case as seen from the charge-sheet, the quantity of contraband alleged to be the ganja, is 2 kgs. and 84 grms. The Inventory Certificate at page no. 86 of the paper-book shows that the seized articles were green leaves, flowers, stems and seeds. Investigation papers do not show the material was segregated and thereafter weighed. Search Panchanama as pointed out by Mr. Shreyas Barsawade, learned Advocate, does not indicate that the said two accused persons were individually informed of their rights under Section 50 of the NDPS Act.

11. Applicant No. 2, a female in the present crime, was not searched by any female member of the raiding party or by a female

police personnel in presence of the female panchas. Section 50(4) of the said Act stood violated as far as Applicant No. 2 is concerned.

12. Contraband, which is alleged to be seized from the Applicants, is a small quantity. Thus, the rigor of Section 37 of the NDPS Act would not apply. Applicants in the present crime are incarcerated from 18th February 2025. Investigation is complete and charge-sheet is filed.

13. In the above facts of the case, the Applicants are entitled for bail. Hence, the present Bail Application is allowed on the following conditions :-

- a. Applicants are directed to be released on bail in connection with Crime No. 43 of 2025 registered with Khed Police Station, Ratnagiri for the offences punishable under Sections 2(b), 20(b), 29 and 8(c) of the NDPS Act on executing PR. Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) each with one or two sureties in the like amount to the satisfaction of the learned Judge, Special Court, Khed.
- b. Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade him from disclosing such facts to the Court or to any police officer.
- c. Applicants shall not tamper with the prosecution

witnesses and evidence in any manner.

- d. Applicants shall co-operate in the conduct of the trial and shall regularly attend the hearing of NDPS Special Case No. 6 of 2025, pending on the file of learned Judge, Special Court, Khed, on each and every date, unless exempted from appearance.
- e. Applicants upon their release, within a period of three days from their release, shall furnish their cell phone numbers and residential addresses with proof to the Investigating Officer, Khed Police Station, Ratnagiri and shall keep the same updated, in case of any change thereto.
- f. Applicants shall not indulge themselves in any activities, which are similar to the present crime.

14. Criminal Bail Application No. 2148 of 2025 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

Digitally signed
by GITALAXMI
KRISHNA
KOTAWADEKAR
Date:
2025.07.09
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