

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 2234 OF 2025

Abbas Tapshir Khan @ Arbaz

... Applicant.

Vs.

The State of Maharashtra

... Respondent.

Mr. Ravi Jadhav a/w. Mr. Vivek Arote a/w. Ms. Sneha
Ramnathan, Advocate for the Applicant.

Mr. T.G. Khan, APP for Respondent/State.

CORAM : ASHWIN D.BHOBE, J.

DATE : 25th JUNE, 2025.

P.C. :

1. Heard Mr. Ravi Jadhav, learned Advocate for the
Applicant and Mr. T.G. Khan, learned APP for the State.

2. By the present Application filed under section 483 of the
Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"), the
Applicant is seeking regular bail in Crime No. 279 of 2024
registered with Lonavala Rural Police Station, Dist-Pune for
offences punishable under Sections 123, 223, 274, 275 and 3(5) of
BNS and Sections 26(2)(I), 26(2)(IV), 27(3)(D), 27(3)(E), 30(2)(A),
59 of the Food Safety Act.

3. Case of the prosecution is that upon receipt of secret information a private vehicle was intercepted and prohibited article 'Gutkha' was seized from the said vehicle. The occupant of the said vehicle disclosed that the said Gutkha belonged to a different person and the raiding team were led to the house of the Applicant. During the search of the house of the Applicant, greenish leafy substance resembling as Ganja weighing 737gm was seized from the house of the Applicant.

4. There are three accused in the present crime. Applicant is the accused No.1. Accused No.2 has not been arrested. Accused No.3 who was arrested, has been released on bail by the Court of The Additional Sessions Court, Vadgaon, Pune. Applicant is in custody since 21st September, 2024. Bail application filed by the Applicant was rejected by the learned Additional Sessions Judge, Vadgaon, Maval, Pune, by Order dated 26th March, 2025.

5. Mr. Ravi Jadhav, learned Advocate for the Applicant states that the substance seized from the house of the Applicant

is greenish leafy substance, which the prosecution allege to resemble as Ganja. He submits that even if the leafy substance seized from the house of the Applicant is considered, it would not fall within the definition of ‘Ganja’ under Section 2(iii)(b) and (c) of the Narcotics Drugs and Psychotropic Substances Act, 1985. He submits that assuming that the contraband is as alleged by the prosecution, the same would be a small quantity.

6. Mr. Khan, learned APP submits that the contraband seized from the house of the Applicant had a strong odour and as per the prosecution the same is Ganja. He however, submits that the quantity seized from the house of the Applicant is a small quantity.

7. Perused the records with the assistance of the learned Advocate for the Applicant.

8. The contraband which is alleged to have been seized, from the house of the Applicant is a small quantity. The rigours of Section 37 of the NDPS Act would not apply. Section 2(iii)(b) & (c) of the NDPS Act, defines Ganja. Substance which is alleged

to have been seized from the house of the Applicant is referred to as “greenish leafy substance”. Prima facie, the same would not fall within the definition of Ganja. Applicant has suffered incarceration since September, 2024. Investigation is complete and the charge-sheet is filed. In the facts of present case the Applicant would be entitled to bail.

9. In view of the above bail application is allowed on the following terms:

(a) Applicant be released on bail in Crime No. 279 of 2024 registered with Lonavala Rural Police Station, Pune upon furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge, Vadgaon Maval, Pune.

(b) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant shall not tamper with evidence

(c) Applicant upon release within 3 days shall furnish his residential addresses with proof and contact details to the Trial Court and Investigating Officer, Lonavala Rural Police Station, Pune.

(d) Applicant shall attend each and every date of hearing fixed before the trial Court in Sessions Case No. 279 of 2024, unless exempted.

(e) Applicant shall not indulge in activities which are alleged in the present crime.

10. Criminal Bail Application No. 2234 of 2025 is disposed of.

[ASHWIN D.BHOBE, J.]