



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.565 OF 2025

Shaikh Juned Shaikh Mukhtar

Vs.

State of Maharashtra, through Police Station Officer, Police Station, Ural,
District Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Mohd. Naveed Opai, Counsel with Mr. Atharva Khadse, Counsel for the
applicant.

Mr. Anant Ghogre, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 18/07/2025

1. The present application is moved by the applicant under Section 483 of the Bharatiya Nagrik Suraksha Sanhita, 2023 in connection Crime No.250/2024, registered with Police Station Ural, District Akola for the offences punishable under Sections 20(b), 20(b)(ii) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "NDPS Act").

2. The crime is registered on the basis of report lodged by Gopal Mahadevrao Dhole API, on an allegation that on a secret information, he in presence of the Gazetted officer and in presence of the panchas conducted a raid at the house of the present applicant and at the compound wall, he found gunny bags containing the contraband article ganja

weighing of 14.860 Kg. In presence of panchas, the said contraband article was seized. After following due procedure, the applicant was arrested. On the basis of the said report, police have registered the crime. After investigation, the Investigating Officer has filed the charge-sheet.

3. Heard learned Counsel for the applicant, who submitted that though the recitals of the FIR shows that the contraband article including the leaves, flowering and fruiting tops, but the inventory report nowhere discloses that the leaves were accompanied with fruiting or flowering tops. The CA report is yet to be received. Moreover, the contraband found is of an intermediate quantity and not of a commercial quantity, therefore, rigor under Section 37 of the NDPS Act will not attract. In view of that, the applicant be released on bail being the investigation is completed.

4. Learned APP for the State strongly opposed for the said application and submitted that the CA report is yet to be received. As far as the description of the contraband article is concerned, which reveals from the first information report and the seizure panchanama that it was along with the flowering and fruiting tops. Thus, within the definition of ganja, the said contraband article covers. In view of that, the application deserves to be rejected.

5. There is no dispute that commercial quantity in relation to NDPS Act for 'ganja' means any quantity greater than 20 kg. The Section 2(iii) (b) and (c) 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.

6. 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. In the case in hand, as seen from the FIR and the investigation papers, the quantity of 14.860 kg. of ganja was seized from the compound of the house of the present applicant. However, the inventory certificate shows the description of the contraband article is dry leaves and seeds which is not within the definition of ganja. It appears that the premises where the said contraband ganja was found is not owned by the present applicant alone. In view of that, the application deserves to be considered.

7. The above state of affairs would make it clear that there is nothing on record to *prima facie* show that the contraband article is a ganja within the definition of 2(iii)(b)(c) NDPS Act. Moreover, the

contraband article was not found in the exclusive possession of the present applicant. The definition of ganja and the contraband found as per the seizure panchama and the first information report as well as the inventory report. The inconsistent material is collected during the investigation by the Investigating Officer. There are criminal antecedents. Mere criminal antecedents are not sufficient to reject the bail application of the present applicant. Considering all these facts, the rigor under Section 37 of the NDPS Act will not attract. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Shaikh Juned Shaikh Mukhtar** shall be released on bail in connection with Crime No.250/2024, registered with Police Station Ural, District Akola for the offences punishable under Sections 20(b), 20(b)(ii) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, on executing PR bond of Rs.50,000/- with one solvent surety in the like amount.
- (iii) The applicant shall report to the concerned Police Station once in a month on first Saturday between 11.00 a.m. to 1.00 p.m.
- (iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the present case.
- (v) The applicant shall not indulge himself in similar type of activities. On contravention of the

above said condition, the bail granted to the present applicant deserves to be cancelled.

(vi) The trial Court shall not be influenced by the observations of this Court, which is only for the purpose of the bail.

The present application is disposed of.

(URMILA JOSHI-PHALKE, J.)