



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

CRIMINAL APPLICATION (BA) NO. 625 OF 2025

Sheikh Mohsin Sheikh Yousuf and another Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Mir Rizwan Ali, counsel for applicant.

Mr. A.J. Ghogkar, APP for Non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/07/2025.

1. The applicants came to be arrested on 18/05/2025 in connection with Crime No. 268/2025 registered with Police Station Malegaon, District Washim for the offence punishable under Sections 8(C) and 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “ the NDPS Act”).

2. The crime is registered on the basis of secret information from the informant that two persons coming from the motorcycle bearing MH-27-AY-0699 are transporting the Ganja. Immediately, the complainant intercepted the vehicle bearing registration No. MH.-27-AY-0699. Applicant No. 1 was driving the said motorcycle, and applicant No. 2 was the pillion rider. During interception, 1.938 kg of Ganja was found along with applicant No. 1. On the basis of the said report, police have registered the crime against the present applicants.

3. Heard learned counsel for the applicants, who submitted that, in the entire FIR, the description of the contraband article is not mentioned by the informant, also not mentioned in the seizure memo. In the inventory, it is only mentioned that it is green in colour and has an odour and dry leaves, which does not fall under the definition of Ganja. Moreover, the contraband article found along with the applicant no. 1 is of a small quantity, and therefore, rigor under Section 37 will not attract.

4. Learned APP strongly opposed the said application and submitted that contraband articles were found in the conscious possession of the applicant No. 1, and after following the mandatory provision, the applicants were arrested. If they are released on bail, there is a likelihood of repetition of similar offence, in view of that, the application deserves to be rejected.

5. On hearing both sides and perusal of the investigation papers, it reveals that neither the FIR nor the seizure memo discloses the definition of Ganja. The inventory report also shows that contraband article, which was found in the envelope, was green in colour, had a strong odour, and was dry leaves. The said inventory report nowhere shows that it was accompanied along with the flowering or fruiting tops. The definition given under Section 2(b) 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. Thus, leaves are not included in the definition of Ganja. Here, inventory report shows that the seized articles are only dry leaves. It nowhere discloses that it was along with the fruiting or flowering tops. Moreover, the quantity of alongwith the present applicants is of a 1.938 Kg, which is a small quantity. Therefore, rigor under Section 37 will not attract. There are no criminal antecedents against the present applicants. Considering all these aspects, the application of the present applicants deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order.

- a] Criminal application is **allowed**.
- b] The applicants, namely *(1) Sheikh Mohsin Sheikh Yousuf and (2) Abdul Fahim Abdul Kayyum*, shall be released on bail in connection with Crime No. 268/2025 registered with Police Station Malegaon, District Washim, for the offence punishable under Sections 8(C) and 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985, on executing PR. Bond of Rs. 1,00,000/- each with one solvent surety in the like amount.

- c] The applicants shall not indulge themselves in a similar type of activities.
- d] A single registration of the offence would lead to cancellation of bail.
- e] The applicants shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.
- f] The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

Criminal Application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]