



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.755 OF 2025
(Mohd. Junaid Ibrahim Rajwani 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

Shri S.H. Mansuri, Advocate for the applicant.
Ms Sneha Dhote, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 11, 2025.

The applicant came to be arrested on 20.09.2024 in connection with Crime No.648/2024 registered with Police Station Jaripatka, District Nagpur for the offences punishable under Sections 8(c), 20(b)(ii) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The criminal law was set in motion on the basis of the information supplied by Manoj Pundlikrao Ghurade, Crime Branch Nagpur City on an allegation that on 19.09.2024 API Kale Crime Branch Office, Gitti Khadan received confidential information that one person by name Umar Khan and his wife Ranu Khan were involved in the business of selling and purchasing Ganja at their residence, which is located at Arya Nagar, Jaripatka and they were about to arrive at the said location for the transaction of Ganja. Accordingly, they have conducted a raid and during raid of the house of the accused, four

gunny bags having contraband were seized. After following the due process they were arrested and total quantity of Ganja sized from the co-accused persons is 93.120 Kg worth Rs.18,62,400/-.

3. During the course of investigation, the Investigating Officer obtained the inventory certificate from the Judicial Magistrate, First Class, Nagpur and sample of the seized contraband was forwarded for the chemical analysis. During investigation, the statement of the co-accused was also recorded from which the name of the present applicant revealed and it was also revealed that they have obtained the said contraband from the present applicant. The Investigating Officer has also collected the CDR and SDR reports and on the basis of the same, the applicant is arrested.

4. Learned Counsel for the applicant submitted that except the CDR reports and the statement of the co-accused there is no other material to connect the present applicant with the alleged offence. Nothing is seized at his instance. Now, as far as the statement of the co-accused is concerned which is not admissible and the issue is already settled by this Court in view of the judgment of the Hon'ble Apex Court in the case of **Tofan Singh Vs. State of Tamil Nadu, [(2021) 4 SCC 1]**. In support of his contention he placed reliance of the decision of this Court in the case of **Ravi Manoj Rai Vs. Union of India and anr. [(2025) SCC Online Bom 260]**

wherein this Court has observed that it is *prima facie* seen that the statements of the co-accused are admittedly not admissible and cannot be read in the evidence as held by the Hon'ble Apex Court in Tofan Singh (supra). The Supreme Court has clearly held that if it is *prima facie* seen that prosecution case in its entirety is based upon the statement of co-accused for indicting the accused, then those statements recorded under Section 67 of the NDPS Act during the course of investigation are not admissible. Admissibility of confessional statements of accused recorded under 67 of the NDPS Act was critically examined by the Supreme Court in the case of Tofan Singh (supra) and it concluded and laid down that such confessional statements are not admissible in evidence. It is seen that such confessional statements recorded under Section 67 of the NDPS Act are clearly hit by Section 25 of the Indian Evidence Act, 1872. *Prima facie* if the aforesaid statements of co-accused are kept away from the purview of consideration, then merely on the residuary material i.e. CDR records, *prima facie*, conviction of applicants cannot be sustained. Needless to state that it shall be open to the prosecution to prove the same in trial.

5. In view of the above observation, if the facts of the present case are taken into consideration, admittedly, except the statements of the co-accused and the CDR reports there is no other material to connect the present applicant with the alleged offence. Now, it is settled law that a Court while deciding a Bail Application

has to keep in mind the principal rule of bail which is to ascertain whether the accused is likely to appear before the court for trial. There are other broad parameters also like gravity of offence, likelihood of the accused fleeing away from the court of justice, his antecedents and others. As far as the present applicant is concerned there is no criminal antecedents.

6. Learned APP has also not brought on record any criminal antecedents, and therefore, he prays for releasing the applicant on bail. Learned APP though strongly opposed the said application but fairly submitted that the State is relying upon the statement of the co-accused and the statement of the present applicant and the CDR reports which is at this stage, sufficient to show the involvement of the present applicant. In view of that, the application deserves to be rejected.

7. On hearing learned Counsel for both the sides and on perusal of the investigation papers as well as the submissions of the learned Counsel for the applicant it reveals that except the statement of the co-accused and the CDR report, there is no other material to connect the present applicant with the alleged offence. In view of the observation of this Court in catena of decisions and the observation of the Hon'ble Apex Court in the case of Tofan Singh (supra) wherein the Hon'ble Apex Court has clearly held that if it is *prima facie* seen that seen the prosecution case in its entirety is based upon the statement of

co-accused for indicting the accused, then those statements recorded under Section 67 of the NDPS Act during the course of investigation are not admissible and hit by Section 25 of the Indian Evidence Act, 1872. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Mohd. Junaid Ibrahim Rajwani in connection with Crime No.648/2024 registered with Police Station Jaripatka, District Nagpur for the offences punishable under Sections 8(c), 20(b)(ii) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, be released on bail, on executing P.R. Bond in the sum of Rs.1,00,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned police station twice in a month i.e. 1st and 15th day of every month between 10.00 AM and 1.00 PM till the culmination of the trial and shall cooperate with the investigating agency

(iv) The applicant shall attend the proceedings before the Trial Court without

seeking any exemption unless there are exceptional circumstances.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(vi) The applicant shall not indulge himself in the similar type of the activities. Single registration of the offence would lead to the cancellation of bail.

(vii) The contravention of any of the condition would lead to the cancellation of bail.

8. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*