



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

**CRIMINAL APPLICATION (BA) NO.758 OF 2025**

Barkat Beg s/o Liyakat Beg  
Vs.

State of Maharashtra, through Police Station Officer, Police Station,  
Hiwarkhed, 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. Anzar Baig Mirza, Counsel for the applicant.  
Mr. Amit Madiwale, APP for non-applicant/State.

**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 22/08/2025**

1. The applicant came to be arrested on 28.12.2024 in connection with Crime No.390/2024 registered with Police Station Hiwarkhed, District Akola for the offence punishable under Sections 8(c) and 20(b) 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 the Police Officer on an allegation that they were on patrolling duty on 27.10.2024, at that time, they received the information that the applicant was selling ganja from his house. The said information was communicated to the officers incharge to the Police Station and the Deputy Superintendent of Police, Akot. The Naib Tahsildar was called as Executive Magistrate at the non-applicant Police Station along with panchs and photographer and one more person with a weighing scale. On the basis of the information, the raid was

conducted at the house of the present applicant and he was found in possession of 1 Kg and 581 Grams of contraband ganja, therefore, he is arrested by following the mandatory provisions. The samples were obtained and after completion of the investigation, the charge-sheet was submitted.

3. Heard learned Counsel for the applicant, who submitted that the applicant allegedly found in possession of the contraband ganja of 1 Kg 581 Grams which is a small quantity and therefore, the rigour under Section 37 will not come into play. He submitted that there is one criminal antecedent against the present applicant, but as the investigation has already been completed and contraband "ganja" is in a small quantity and therefore, further incarceration of the present applicant is not required.

4. In support of his contention he placed reliance on decision of this Court in **Criminal Application (BA) No.602/2024 (Mohammad Jakir Nawab Ali Vs. The State of Maharashtra thr. P.S.O., P.S. Sonala, Dist. Buldhana) decided on 20.09.2024.**

5. Per contra, learned APP strongly opposed for the same on the ground that considering the applicant was found in possession of the contraband article, the mandatory provisions were already followed. In view of that the application deserves to be rejected.

6. 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.

7. As far as the allegation against the present applicant is concerned, he was found in possession of 1 Kg 581 Grams Ganja, which is admittedly a small quantity and therefore, the rigour 37 of the NDPS Act will not come into play. Admittedly, the investigation is already completed and charge sheet is already filed, further incarceration of the present applicant is not required. At this stage, the comment upon the merits of the matter is not required. Considering the investigation is completed, the application deserves to be allowed. Accordingly, I proceed to pass following order:

**ORDER**

(i) The application is allowed.

(ii) The applicant **Barkat Beg s/o Liyakat Beg** shall be released on bail in connection with Crime No.390/2024 registered with Police Station Hiwarkhed, District Akola for the offence punishable under Sections 8(c) and 20(b) of the Narcotic Drugs and

Psychotropic Substances Act, 1985, on executing PR Bond of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(iv) The applicant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.

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

The application is disposed of.

**(URMILA JOSHI-PHALKE, J.)**