



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

CRIMINAL APPLICATION (BA) NO. 752 OF 2025

(Biku Abraham Mandal

Vs.

State of Maharashtra, Thr. PSO, Police Station GRP Railway District
Akola.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.S. Londhe, Advocate for the Applicant (VC).

Mr. M.J. Khan, APP for the Non-applicant/State.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 4th AUGUST, 2025

1. The Applicant came to be arrested on 26.10.2024 in connection with Crime No.406/2024 registered with Police Station GRP Railway, Taluka and District Akola for the offence punishable under Sections 20(b)(ii) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act").

2. As per the allegations the Informant namely Archana Gaadwe, Assistant Police Inspector attached with Railway Police, Akola lodged a report, wherein she has stated that on 27.10.2024 while she was present at the Police Station, one Police Constable namely Kapil Gawai came to the Police Station and informed her that while they were doing patrolling at Railway Police Station, at that time, in front of the booking office of Railway Station two persons were found in suspicious condition having 3 bags in their possession. In all 3 bags there were packets of brown colour duly taped and

after verification of these packets the said substance was identified as Ganja. After conducting further procedure on following the mandatory provisions the Ganja was seized. The notice under Section 50(1) of the NDPS Act was also given to the present Applicant. He was given the detail information of his right to be verified and checked in presence of Gazetted Officer and thereafter found stock of the contraband Ganja as mentioned in the FIR, which is a commercial quantity i.e. 24.700 kg and 2 mobile handsets. On the basis of the said report Police have registered the crime against the present Applicant.

3. Heard learned Counsel for the Applicant who submitted that the contraband article Ganja seized from the possession of the present Applicant is not of a commercial quantity. He further submitted that, his relative was not informed as far as his arrest is concerned. As the contraband article found in his possession is not of a commercial quantity and that is of the intermediate quantity, and therefore, bar under Section 37 will not attract, and therefore, the Application deserves to be allowed and he be released on bail.

4. Learned APP, strongly opposed the said Application and invited my attention towards the notice under Section 50 as well as the notice given to the relative of the present Applicant. He submitted that there is a compliance of Section 42 as well as Section 50. The contraband article found in the possession of the present Applicant is Ganja, which is verified by the CA report. Thus, the present Applicant and the other co-accused collectively found in the possession of commercial quantity, and

therefore, bar under Section 37 will attract. In view of that Application deserves to be rejected.

5. On hearing both the sides and on perusal of the investigation papers, there is a substance in the submission of the learned PP. During search of present Applicant and other co-accused, commercial quantity was found in their possession. The information was taken down by the Investigating Officer in view of Section 42. The notice under Section 50 is also given. The grounds of arrest are also communicated to the present Applicant by issuing notice under Section 50 (1) of the NDPS Act. The information was also given to the relative and the communication which is on record sufficiently shows that there is a compliance. As far as the bar under Section 37 is concerned, it will attract and the contraband article was found in the possession of the present Applicant, which is of a commercial quantity. In view of bar under Section 37 of the NDPS Act, the Application deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

i. The Application is **rejected**.

6. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)