IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 BAIL APPLICATION NO. 1710 OF 2026

Shubhratna Alias Kapil Baburao Gaikwad
VERSUS
The State of Maharashtra

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Mr. Sudarshan Salunke h/f Mr. Shaikh Layak S., Advocate for Applicant
Smt. Ashlesha Deshmukh, APP for the Respondent - State

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CORAM : HITEN S. VENEGAVKAR, J.
DATE : 13.10.2026

PER COURT :

1. Heard the learned Advocate for the Applicant and the learned APP for the Respondent – State.

2. The Applicant seeks regular bail in connection with Crime No.0183/2026, registered with Udgir City Police Station, District Latur, for the offences punishable under Sections 20(b)(ii)(C) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 [hereinafter referred to as 'the NDPS Act']. The Applicant came to be arrested in connection with the aforesaid crime on 18.05.2026 and has been in custody since then. It is a matter of record that, the investigation in the present crime is completed and the charge-sheet has already been filed.

3. The case of Prosecution is that, on 18.05.2026, a search was conducted at the premises, in which, the present Applicant was found. During the said search, a gunny bag containing 24 Kg. and 740 grams of *Ganja* valued at Rs.7,42,200/- was found. The FIR describes the seized contraband as dried leaves with seeds. As the

ganja recovered from the premises is a prohibited substance and the applicant did not possess a licence to deal with it, an offence came to be registered against the present applicant.

4. The investigation proceeded, and pursuant to the First Information Report, a seizure panchnama of the contraband was drawn.

5. The learned Advocate appearing for the Applicant submits that, without disputing the Prosecution case on the ground of the validity or legality of the search conducted by the Prosecution, even if the allegations levelled by the Prosecution are taken at their face value and accepted to be true, the contraband seized would not fall within the definition of "*Ganja*" as contemplated under Sections 2(iii)(b) and 2(iii)(c) of the NDPS Act. He submits that the three most important documents forming part of the charge-sheet, namely, the First Information Report containing the description of the contraband recovered from the premises, the seizure panchnama drawn by the Investigating Officer, and the inventory subsequently prepared in accordance with Section 52-A of the NDPS Act, consistently mention the contraband as "brownish-black dried leaves of ganja along with seeds, having a strong smell." He submits that the contraband seized, even according to the Prosecution, did not contain any fruiting or flowering tops. He further submits that, in the absence of any fruiting or flowering tops, the alleged contraband would not fall within the definition of "*Ganja*" and, consequently, would not attract the penal provisions of the NDPS Act, as it does not satisfy the requirements of Sections 2(iii)(b) and 2(iii)(c) thereof.

6. The learned APP appearing for the State submits that the Chemical Analyser's (CA) report obtained by the prosecution clearly indicates that the seized contraband is ganja. She submits that the said report corroborates the prosecution case that the contraband recovered from the premises, where the applicant was found present, is "ganja", which is a prohibited substance under the NDPS Act. She, therefore, contends that the applicant has been rightly prosecuted for offences under the provisions of the NDPS Act. She further submits that the applicant is a habitual offender and that another criminal case under the NDPS Act has already been registered against him. Taking into consideration the Chemical Analyser's report, inventory, seizure panchnama, and the specific role attributed to the present Applicant in the First Information Report, she prays that, the Application be dismissed.

7. I have heard the learned counsel for the parties and perused the entire charge-sheet annexed to the present application. The prosecution case, as reflected in all the aforesaid documents, is that the contraband recovered from the premises in which the Applicant was found present comprised of brownish-black dried leaves with seeds having a strong smell, and the said substance has been described by the Prosecution as "*Ganja*". The Chemical Analyser's report, therefore, indicates that the substance recovered is *Ganja*. However, what is required to be examined is whether the seized contraband falls within the definition of 'ganja' as provided under the NDPS Act so as to attract the penal provisions of the said Act. Perusal of Section 2(iii)(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; and Section 2(iii)(c) of the NDPS Act defines any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom. Taking into consideration the definition of '*Ganja*' under the NDPS Act, it is evident that the essential requirement for a substance to constitute '*Ganja*' is the presence of the flowering or fruiting tops of the cannabis plant. The statute specifically excludes seeds and leaves when they are not accompanied by such tops.

8. In the present case, what has been recovered are dried leaves and seeds, which are specifically not accompanied by the flowering or fruiting tops. Therefore, the same requires to be excluded while determining the quantity of the contraband, so as to ascertain whether the recovered contraband falls within the category of commercial quantity or non-commercial quantity. The total weight of the seized contraband, as reflected in the First Information Report itself, is 24 kg and 740 grams of *Ganja.* There is nothing on record to demonstrate whether the aforesaid quantity of 24 kg and 740 grams consists solely of dried leaves and seeds or whether it also contains flowering or fruiting tops. Thus, the Prosecution will have to prove its case against the present Applicant pertaining to the contraband recovered from the premises as *Ganja* before the learned Trial Court by leading appropriate evidence. However, the learned Advocate for the Applicant has rightly demonstrated that there is a reasonable doubt as to whether the substance seized in the present case satisfies the statutory definition of "*Ganja*" under Section 2(iii)(b) of the NDPS Act. Therefore, in my view, the Applicant deserves to be released on bail. Although the learned

APP has pointed out that the Applicant has a criminal antecedent involving a similar offence and that the requirements of Section 37 of the NDPS Act have not been satisfied, it is pertinent to note that the Applicant has already been released on bail in the earlier case. In the circumstances, appropriate directions and conditions can be imposed upon the Applicant while releasing him on bail in the present case. Hence, the following order:

ORDER

[I] The Bail Application is allowed.

[II] The Applicant, in connection with Crime No.0183/2026, registered with Udgir City Police Station, District Latur, for the offences punishable under Sections 20(b)(ii)(C) and 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, be released on bail on furnishing personal bond of Rs.50,000/- [Rupees Fifty Thousand Only] with one or two sureties in the like amount.

[III] The Applicant shall attend the concerned police station on 1st Monday of every month between 10.00 a.m. to 12.00 noon from the date of his release and thereafter, as and when the Investigating Officer directs the Applicant to attend the Police station.

[IV] The Applicant shall not indulge in any offence of a similar nature hereinafter. In the event of breach of this condition, it shall be open to the prosecution to move an application for cancellation of bail.

9. Application stands disposed of accordingly.

[HITEN S. VENEGAVKAR, J.]

Sameer/Oct-2026