



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

958 BAIL APPLICATION NO. 2461 OF 2025

Narayan Shesherao Magar

....Applicant

VERSUS

The State of Maharashtra & another

.....Respondents

Mr. N. B. Patekar, Advocate for Applicant.

Mr. B. B. Bhise, APP for the State.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 21st JANUARY, 2026.

PER COURT :

1. Applicant has preferred this application seeking regular bail in connection with Crime No. 376/2025 registered with Chaklamba Police Station, Dist Beed, for the offences punishable under Sections 20(b)(ii), 20(b)(i), 20(b), 20(b)(1)(2), 8(b) of the Narcotic Drugs and Psychotropic Substances Act.

2. The prosecution case is that informant received secret information on 02.11.2025 that the applicant was illegally cultivating cannabis plants for financial gain in the farm Gat No. 190 situated at village Dhumegaon, Tq. Georai Dist. Beed. On conducting raid of the spot, cannabis plants along with fruiting crops weighing 153.15

KG was seized from the spot. Accordingly First Information Report came to be registered against the Applicant.

3. The learned counsel for the Applicant submits that the Applicant is falsely implicated and challenges the validity of the seizure. Under Section 2(iii)(b) of the NDPS Act, "flowering and fruiting tops" are essential to classify material as 'ganja', which these plants allegedly lacked. Furthermore, the raid was conducted without following the due procedure, as police have uprooted the alleged plants from the farm those are along side of other crop, raising doubts about the identification of the seized material. Hence, prayed to allow the application.

4. Learned APP has opposed the application and submitted that huge quantity of Ganja plants are seized from the field in possession of the Applicant. The seized contraband admeasuring 153.15 kg is of commercial quantity. As such, there is prima facie complicity of the applicant and prayed to reject the application.

5. Upon considering the submissions of both sides and perusing the material on record, including the charge-sheet, indicates that the

Applicant is an agriculturalist, who, allegedly planted the contraband alongside crop of cotton. The commercial quantity in relation to the NDPS Act is considered to be 20 kg or above. However, the expression 'ganja' specifically defines in Section 2(b) and (c) as the flowering and 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.

6. The expression, 'ganja' as defined under the Act makes it abundantly clear that it refers specifically to the flowering or fruiting tops of the cannabis plant, excluding the seeds and leaves when they are not accompanied by the tops.

7. In the present case, as is evident from the First Information Report), the seizure weighed 153.15 kg, which constituted the entire cannabis plants along with all other parts, including roots. There is no separate record available to indicate the specific quantity of only the flowering and fruiting tops—the precise components that legally constitute 'ganja' under the Act (excluding seeds and leaves).

8. Therefore, at this juncture, it remains doubtful whether the alleged offense properly falls under Section 20(b) of the NDPS Act. In view of the aforesaid circumstances, and in the absence of a distinct record quantifying solely the possession of the flowering tops, it is highly questionable whether the total quantity seized can reliably be regarded as exceeding the commercial quantity threshold. In any case, the same would be subject matter of trial.

9. In case of Laxman Shankar Ghankute Vs. State of Maharashtra (Criminal Bail Application No. 2583 of 2019), this Court on 23.06.2021 observed that because the seizure consisted of whole plants without a specific quantification of flowering tops, there was doubt as to whether the weight could be classified as "commercial quantity."

10. In that view of the matter, I am inclined to exercise discretion in favour of the Applicant.

11. Hence, the following order :-

ORDER

- (i) Application is allowed.

(ii) Applicant Narayan Shesherao Magar, be released on bail, on furnishing P.R. bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand) with one or two local solvent sureties, in the like amount, in connection with Crime No. 376/2025 registered with Chaklamba Police Station, Dist Beed, for the offences punishable under Sections 20(b)(ii), 20(b)(i), 20(b), 20(b)(1)(2), 8(b) of the Narcotic Drugs and Psychotropic Substances Act, on the following conditions :-

(a) The Applicant shall not pressurize the prosecution witnesses and tamper with the prosecution evidence, in any manner.

(b) The Applicant shall attend the trial on each and every date unless exempted by the Trial Court and shall not leave the area of jurisdiction of the concerned Police Station till conclusion of the trial.

(c) The Applicant shall submit Aadhar and Pan Cards to the Investigating Officer and detailed address and phone numbers of the Applicant and two of the near relatives.

(d) In case of breach of any of the conditions by the Applicant, it is open for the prosecution to move this Court seeking cancellation of bail.

(iii) Needless to state that, nothing stated hereinabove shall be construed as an expression on merits of the case. Learned Trial

court shall proceed independently and uninfluenced by the observations made hereinabove.

(SACHIN S. DESHMUKH, J.)

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