



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

81 BAIL APPLICATION NO. 103 OF 2026

Vijay Anil PawarApplicant

VERSUS

The State of MaharashtraRespondent

Mr. S. A. Kulkarni, Advocate for Applicant.
Smt. R. R. Tandale, APP for the State.

WITH
BAIL APPLICATION NO. 102 OF 2026

Ajgar Hussain Khan Applicant

VERSUS

The State of MaharashtraRespondent

Mr. C. C. Deshpande, Advocate for Applicant.
Smt. R. R. Tandale, APP for the State.

CORAM : SACHIN S. DESHMUKH, J.
DATE : 9th FEBRUARY, 2026.

PER COURT :

1. Applicants seek regular bail in connection with Crime No. 065/2025 registered with Songir Police Station, Dist. Dhule, for the offences punishable under Sections 22(B), 20(b)(ii), 8(c) of Narcotic Drugs and Psychotropic Substances Act.

2. The prosecution case is that, on 26.03.2025 the informant along with other police personnel were on patrolling duty from 23.00 hours to 8.00 hours. At around 23.30 hours, they noticed one pickup van coming in rash and negligent manner from Shirpur. Upon intercepting, the vehicle stopped near Songir Toll Plaza. Upon search of the vehicle, contraband Ganja was found. Therefore, extra police force was called at the spot. Upon interrogation, the driver disclosed his name as Vijay Anil Pawar. One Ajgar Husain Khan was accompanying him. Three gunny bags containing contraband were seen in the vehicle. It was informed that the said contraband belongs to Ajgar Husain Khan. Police seized contraband and the vehicle and brought to the police station along with the accused. The in-charge Officer informed about the seizure to the Superintendent of Police and after obtaining necessary permission, initiated action under NDPS Act. Greening wet Ganja weighing 37.02 kgs. Came to be seized. Thereafter, report came to be lodged.

3. Learned Counsel for the Applicants submit that the Applicants are falsely implicated in the offence. They have no criminal antecedents. Further, the prosecution case suffers from serious procedural lapses. It is further submitted that it will be difficult to establish whether the alleged contraband falls within the meaning of

'ganja' as contemplated under Section 2(b) of the NDPS Act. According to the learned counsel, the investigation is complete and the charge-sheet has been filed. Since the trial is likely to take time and as such, there is no flight risk, the learned counsel have prayed that the applications be allowed.

4. The learned APP vehemently opposed the applications, submitting that the applicants were found in possession of contraband. Considering that the weight of the seized contraband exceeds the "commercial quantity" defined under the NDPS Act, the APP prayed for rejection of the applications. In support of submissions, the learned APP has placed reliance on judgment in the case of Narcotic Control Bureau vs. Kashif [(2024) 11 SCC 372] to contend that the delay of lapse of procedural irregularity would not entitle the accused to be released on bail.

5. Upon considering the submissions of both the sides and perusing the material on record, including the charge-sheet, it indicates that the learned JMFC has prepared the Inventory Certificate. The commercial quantity in relation to NDPS Act for contraband which is over and above 20 kg.

6. Admittedly, the case originates from the allegation that the accused while transporting were found in possession of ganja. Upon intercepting the vehicle in question the police discovered the contraband. A total of 37.02 kg of ganja (muddemal) was seized, leading to the arrest of the Applicants.

7. The Hon'ble Apex Court in case of Prasanta Kumar Sarkar Vs. Ashis Chatterjee [(2010)14 SCC 496], has held that the mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be considered, including reasonable ground for belief in guilt, nature of evidence and possibility of justice being thwarted.

8. Equally, the Honourable Apex Court in case of State of UP through CBI Vs. Amaramani Tripathi [(2005)8 SCC 21], has held that the Court must evaluate the prima facie evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused. As stated earlier, the applicants were found in possession with the contraband.

9. The Honourable Apex Court in the case of Mahipal Vs. Rajesh Kumar and others (AIR 2020 SC 670) has laid down the principle that bail can be refused when the material produced by prosecution establishes a clear prima facie face. The Court should not conduct a

mini-trial; it should only examine whether the available evidence links the accused to the alleged offense.

10. Considering the material available, prima facie case is made out showing the involvement of the accused. Equally, the Hon'ble Apex Court has consistently reiterated that while considering bail application/s in serious offenses, the Court must treat vital considerations like the nature of the charge and the nature of the evidence as paramount.

11. Similarly, the Hon'ble Apex Court in case of Ram Govind Upadhyay Vs. Sudarshan Singh [(2002)3 SCC 598], has held that a judicial discretion in granting bail must not be exercised whimsically, especially in heinous / serious offences.

12. Equally, the submissions putforth by the learned APP lends support to the observations rendered in Narcotic Control Bureau Vs. Kashif (supra), wherein the Honourable Apex Court held that the lapse or delayed compliance of procedural irregularity with statutory provisions would not entitle the accused to be enlarged on bail. As such, the applicant being a transporter cannot seek benefit of the same.

13. Apart from aforestated aspects, the Apex Court in case of Narcotic Control Bureau vs. Mohit Aggrawal, (2022) SCC Online SC

891, has held that the Court, while considering bail application, is not expected to weigh the evidence for arriving at a finding whether accused has committed an offence under the NDPS Act.

14. In the present case, the FIR indicates that 37.02 kg of ganja was discovered. Similarly, the Certificate of Inventory issued under Section 52A(3) of the NDPS Act confirms that 3 bags were weighed and measured, all containing contraband. Consequently, the Inventory Certificate indicates that the accused were in conscious possession of contraband.

15. There is prima facie evidence on record indicating ganga. Consequently, at this stage, the offence under Section 20(b) of the NDPS Act is prima facie made out. Considering these circumstances, a prima facie case exists against the Applicants.

16. In view of the aforesaid observations and having regard to the gravity of the offence, I do not find merit in the present application and accordingly, both the bail applications are rejected.

(SACHIN S. DESHMUKH, J.)