



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

972 BAIL APPLICATION NO. 256 OF 2026

Meet Shyam Vaishnav .....Applicant

VERSUS

The State of Maharashtra .....Respondent

Mr. A. K. Bhosle, Advocate for Applicant.

Mr. P. P. Davalkar, APP for the State.

**CORAM : SACHIN S. DESHMUKH, J.**

**DATE : 20<sup>th</sup> FEBRUARY, 2026.**

PER COURT :

1. Applicant seeks regular bail in connection with Crime No. 334/2025 registered with Pachod Police Station, Dist. Chhatrapati Sambhajnagar, for the offences punishable under Sections 8(c), 20(b) (ii) of Narcotic Drugs and Psychotropic Substances Act.

2. The case of prosecution is that on on 29.08.2025 when informant received secret information that one person is possessing contraband of cannabis at a house situated in Gat No. 126 in Dabhrul Shivar and selling the same at the rate of rs. 3,000/- per 100 gms. Accordingly, they called panchas, arranged weighing machine and arranged Chemical Analyst. During the raid, they found 7 persons on the spot out of which they could caught hold 4

persons. Upon enquiry, accused No. 1 disclosed his name as Ramsing Jarwal. He further disclosed that he was cultivating land of Gorkshanath Shinde since 2020 and all of them sell the contraband articles. During the raid, 4 gunny bags containing contraband cannabis weighting 67 kgs 500 gms were seized. On the basis of this, First Information Report came to be lodged.

3. Learned Counsel for the Applicant submits that the Applicant is falsely implicated in the alleged crime on the basis of the statement given by the main accused. The Applicant has no relation with the main accused. The learned Counsel for the Applicant further challenges the validity of the seizure. It is further submitted that the police have inflated the total weight. It was also submitted that there is delay in sending samples to Forensic Science Laboratory for which there is no explanation. In support of submissions, the learned Counsel has placed reliance on the order of Hon'ble Apex Court in case of Wajid Ali @ Tinku vs. State of Rajasthan, **SLP Appeal (Cri) No. 7049/2025**. Under Section 2(iii)(b) of the NDPS Act, "flowering and fruiting tops" are essential to classify material as 'ganja', which the alleged seized material lacked. Furthermore, the raid was

conducted without following the due procedure. Hence, prayed to allow the application.

4. Learned APP vehemently opposed the application submitting that the Applicant was in conscious possession of the contraband. Contraband exceeding commercial quantity has been seized from the field in possession of the Applicant. The seized contraband admeasuring 67.50 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 arraigned as accused on the basis of statement of the accused No. 1. There are no criminal antecedents against the present Applicant. 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. Apart from same, prima facie, there is delay in sending the samples to Forensic Science Laboratory.

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 67.03 kg, and 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. Nevertheless, investigation in the crime is complete for all purpose and intent. Resultantly charge-sheet is filed. Applicant is arrested on 29.08.2025. Having regard to the number of witnesses prosecution intends to examine, the trial is not likely to be concluded within reasonable period. Apart from aforesaid aspects, considering the fact that there are no antecedents against the Applicant vis-a-vis the age of the Applicant, who is 19 years old, further incarceration of the Applicant is not warranted. Hence, I am inclined to exercise discretion in favour of the present Applicant.

11. Hence, the following order :-

**ORDER**

- (i) Application is allowed.
- (ii) Applicant Meet Shyam Vaishnav, 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. 334/2025 registered with Pachod Police Station, Dist. Chhatrapati Sambhajanagar, for the offences punishable under Sections 8(c), 20(b)(ii) of 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 concerned 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.)

