



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 311 OF 2026

Atish Rajkumar Mane	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

Shri Joydeep Chatterji, Advocate for the Applicant.
Shri A. R. Kale, Addl.P.P. for the Respondent – State.

CORAM : SHAILESH P. BRAHME, J.
DATE : 07TH APRIL, 2026.

FINAL ORDER :

. Heard both sides. Applicant is seeking bail in respect of offence bearing Cr. No. 294/2024 registered with Naldurg Police Station, Dist. Osmanabad for the offences punishable U/Sec. 8[c], 20[b] and 29 of the Narcotic Drugs and Psychotropic Substances Act (for the sake of brevity and convenience hereinafter referred as to the 'N.D.P.S. Act')

2. It is alleged that a raid was conducted on receiving secret information of transportation of contraband article. The patrolling officer intercepted a vehicle namely scorpio car and inquired with the person who is stated to be the applicant. He disclosed the existence of ganja in the vehicle. Thereafter arrangements were made for seizure panchanama and necessary steps were taken. The patrolling party seized 528.94 Kg of ganja in 259 packets.

3. Charge sheet is filed on 23.01.2025. Co-accused were released on bail.

4. Learned counsel Mr. Joydeep Chatterji for the applicant submits that there is total non compliance of Sec. 52A(2) and 52A(4) of the N. D. P. S. Act. The inventory of contraband articles were conducted on 02.08.2024. The contents of the packets were greenish and brownish leaves, which is not covered by Sec. 2(iii)(b) of the N. D. P. S. Act. My attention is adverted to the roznama of Special Case No. 08 of 2025 to show that matter was pending for framing of charge from 05.06.2025 to 23.03.2026. The co-accused are absconding. The charge is yet to be framed. Considering the long incarceration, enlargement on bail is solicited.

5. Per contra, learned A. P. P. submits that due procedure of law was followed while conducting arrest and seizure of the contraband. The grievance for non compliance of Sec. 52A of the N. D. P. S. Act cannot be entertained for consideration of bail. My attention is adverted to the report of chemical analysis showing contraband seized is within purview of Sec. 2(iii)(b) of the N. D. P. S. Act. The co-accused are protracting the trial. The presumption U/Sec. 54 of the N. D. P. S. Act is attracted considering the quantity and serious offence has been committed by the applicant.

6. My attention is adverted by the learned counsel Mr. Chatterji to the order passed by the Coordinate Bench on

04.08.2025 in Bail Application No. 962 of 2025. The grievance of non compliance of Sec. 52A of the N. D. P. S. Act or the irregularities in pursuance thereof cannot be gone into at this stage for releasing the accused on bail. The respondent has relied on the judgment of the Apex Court in the matter of Narcotics Control Bureau Vs. Kashif reported in *(2024) 11 SCC 372*. It is relevant to refer following paragraphs :

“35. It is significant to note that as per Section 54 of the said Act, the courts are entitled to presume, unless and until the contrary is proved that the accused had committed an offence under the Act in respect of any narcotic drug or psychotropic substance etc. for the possession of which he failed to account satisfactorily. Therefore, unless such statutory presumption is rebutted by the accused during the course of trial, there would be a prima facie presumption that the accused had committed the offence under the Act, if he is found to have possessed the contraband drug and substance, and if he fails to account satisfactorily, as contemplated in the said provision of Section 54. An anomalous situation would arise if a non-compliance or delayed compliance of Section 52A is held to be vitiating the trial or entitling the accused to be released on bail, though he is found to have possessed the contraband substance, and even if the statutory presumption is not rebutted by him. Such could not be the intention of the legislature.

50. The upshot of the above discussion may be summarized as under:

50.1 The provisions of NDPS Act are required to be interpreted keeping in mind the scheme, object and purpose of the Act; as also the impact on the society as a whole. It has to be interpreted literally and not liberally, which may ultimately frustrate the object, purpose and Preamble of the Act.

50.2 While considering the application for bail, the Court must bear in mind the provisions of Section 37 of the NDPS Act which are mandatory in nature. Recording of findings as mandated in Section 37

is sine qua non is known for granting bail to the accused involved in the offences under the NDPS Act.

50.3 The purpose of insertion of Section 52A laying down the procedure for disposal of seized Narcotic Drugs and Psychotropic Substances, was to ensure the early disposal of the seized contraband drugs and substances. It was inserted in 1989 as one of the measures to implement and to give effect to the International Conventions on the Narcotic drugs and psychotropic substances.

50.4 Sub-section (2) of Section 52A lays down the procedure as contemplated in sub-section (1) thereof, and any lapse or delayed compliance thereof would be merely a procedural irregularity which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone.

50.5 Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.

50.6 Any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The Court will have to consider other circumstances and the other primary evidence collected during the course of investigation, as also the statutory presumption permissible under Section 54 of the NDPS Act.”

7. In view of clear exposition of law by the Apex Court, it is impermissible to entertain the submission in respect of Sec. 52A of the N. D. P. S. Act. In the order of the Coordinate Bench referred above, the judgment of the Apex Court was not cited and taken into account. Hence that would not assist the applicant.

8. I was shown the report of chemical analysis, which was not available when charge sheet was filed. The contraband seized

from the applicant is found to be ganja and it was within the purview of Sec. 2(iii)(b) of the N. D. P. S. Act.

9. The quantity of 528.94 Kg was seized in the raid. *Prima faice*, there is material on record that applicant was having contraband in his vehicle. The order dated 30.06.2025 cited by the applicant passed by the Coordinate Bench in Bail Application No. 797 of 2025 was in respect of 29 Kg of ganja. In that case no final report of chemical analysis was available and nature of the contraband seized was uncertain. The facts are distinguishable from the case at hand. No benefit of the view taken by the Coordinate Bench can be given to the applicant.

10. I have gone through the roznama. The co-accused are absconding and charge is yet to be framed. Considering the progress of the matter, I do not find that a case is made out for enlarging the applicant on bail due to delay in trial. Learned A. P. P. has assured to take prompt steps for expeditious disposal of the trial.

11. For the reasons stated hereinabove, I find no merit in the application. It is rejected. Trial in Special Case No. 08 of 2025 is expedited.

[SHAILESH P. BRAHME J.]

bsb/April 26