

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLN. NO. 85 OF 2026

B. KUNAL KUMAR DORA
VERSUS
UNION OF INDIA, DEPARTMENT OF REVENUE CBIC PUNE
(NARCOTIC CELL) CUSTOMS AND ANR.

Advocate for Applicant : Mr. Balwant Salunkhe a/w Mr. Omkar Voratkar
APP for Respondent-State : Dr. Ashvini A. Takalkar
Advocate for Respondent No. 1 : Mr. Vijay Killedar a/w Mr. Shivraj Jagdale

CORAM : SACHIN S. DESHMUKH, J.

Date : 8th April, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 09.02.2024 bearing Crime No. 1 of 2024 registered with Pune Customs (Narcotic Cell), Pune for the offences punishable under Sections 20(B)(ii)(c), 29 of the Narcotics Drugs and Psychotropic Substances Act.

2. The prosecution case is that the Customs Inspector (Narcotic Cell, Pune) acted on a specific intelligence report regarding the illegal transport of 100 kg of Ganja. The contraband was reportedly being moved via AC coach on Train No. 22882 from

Berhampur, Odisha, to Solapur. The informant provided precise details, including the suspects' names, mobile numbers, and a photograph of one individual. The intelligence was verified when officials intercepted a Mahindra Scorpio (MH-12-RK-2040) in Solapur, where the drugs had been transferred from the train. A search of the vehicle confirmed the presence of the illicit substance as described. Accordingly, the FIR came to be lodged.

3. The previous application presented by the applicant bearing Bail Application No. 4434 of 2024 was dismissed as withdrawn with liberty to file fresh bail application after four months by an order of this Court dated 15.09.2025.

4. When confronted about the successive application, the learned counsel for applicant submits that the first bail application was dismissed as withdrawn and no reasons are recorded. Thus, submitted that the present application be heard on merits.

5. The learned counsel for applicant submits 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. The arrest of the applicant has been effected on 09.02.2024 and since then, he is in jail. Since the trial is likely to take time and as such, there is no flight risk, the learned counsel has prayed that the application be allowed.

6. The learned APP vehemently opposed the application, submitting that the applicant 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 application. If the applicant is enlarged on bail, there is every possibility of repeating the offence of similar nature.

7. It is further submitted that in any case, this is a successive bail application and there is no change in the circumstances. Initially, application of the applicant was dismissed as withdrawn. This Court must give serious consideration while dealing with maintainability of successive bail application at a subsequent stage without any substantial change in circumstances. Hence, prayed to reject the bail application.

8. Upon considering the submissions of both the sides and

perusing the material on record, including the charge-sheet, the seizure of 120.510 kg of Ganja is significantly above the 20 kg threshold defined as commercial, thereby shifting the burden onto the applicant to satisfy the court that there are reasonable grounds to believe he is not guilty. At this preliminary stage, the record *prima facie* indicates a specific intelligence led operation where the details provided by the informant, including names and vehicle numbers, matched the actual interception at Solapur. The physical recovery i.e. conscious possession provides a strong *prima facie* case against the accused.

9. 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.

10. 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 applicant was found in possession with the contraband.

11. The Honourable Apex Court in the case of **Mahipal Vs. Rajesh Kumar and Ors. (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* case. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offence.

12. Considering the material available, a clear *prima facie* case is made out indicating the involvement of the accused. Equally, the Hon'ble Apex Court has consistently reiterated that when considering bail application/s in serious offences, the Court must treat vital considerations like the nature of the charge and the nature of the evidence as paramount.

13. In the present case, there is *prima facie* evidence on record indicating the presence of flowering or fruiting tops. Consequently, at this stage, the offence appears to fall under Section 20(b) of the NDPS Act. Considering these circumstances, a *prima facie* case exists against the applicant.

14. As far as the reliance placed by the learned counsel for the applicant is concerned, the same being distinguishable on facts to that of the present case, same do not lend any support in favour of the applicant.

15. The Hon'ble Apex Court in case of **State of Bihar Vs. Amit Kumar [(2017)13 SCC 751]**, has held that delay especially in cases involving serious offences, cannot by itself be a ground for bail. In the present case, the trial is progressing. Considering the seriousness of the offences involved, the overwhelming material weighs against the applicant.

16. Therefore, the submission of the learned counsel for applicant in relation to delay in trial, the same cannot be considered in isolation. As has been held by Hon'ble Apex Court in case of **Amit Kumar** (supra), the delay especially in cases involving serious offences, cannot by itself be a ground for bail.

17. 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, the bail application is **rejected**.

18. Needless to states that the observations rendered herein are to the extent of this application and the trial court shall not be influenced by the same.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi