IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLN. NO. 93 OF 2026

AJAY NARAYAN CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND ANR.
...

Advocate for Petitioner : Mr. Shrikant Jadhav i/b Mr. Muralidhar Kharat and Mr. Sanket Patil
APP for Respondents-State : Dr. Ashvini A. Takalkar
...

CORAM : SACHIN S. DESHMUKH, J.

Date : 2nd April, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 12.09.2025 bearing Crime No. 452 of 2025 registered with Tasgaon Police Station, Dist. Sangli for the offences punishable under Sections 8(c), 8(b), 20(b)(i) and 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The prosecution case is that on 12.09.2025, Police Personnel from Tasgaon received secret information regarding illegal cultivation at Chavan Vasti. Accompanied by panch witnesses and a photographer, the team raided the agricultural land and apprehended the applicant while he was working in the

field. The prosecution alleges that after complying with Section 50 of the NDPS Act, officers uprooted and seized 148.89 kgs of standing contraband plants along with 1.310 kgs of dried ganja. Accordingly, the FIR came to be registered.

3. The learned counsel for the applicant submits that the applicant is falsely implicated in the offence. It is further submitted that the the seized substance includes seeds, tops, stems, flower etc. As such, it would be difficult to establish whether the alleged contraband falls within the definition of "ganja" as contemplated under Section 2(b) of the NDPS Act. Hence, prayed that the application be allowed.

4. The learned APP opposed the application, submitting that the offence is serious in nature and is found in possession of the Ganja. Further expressed the apprehension, that there is a possibility of applicant fleeing away or repeating an offence of a similar nature, if released on bail. Consequently, the learned APP prayed for the rejection of the application.

5. Considering the submissions of both the sides and perusing the material on record, it is evident that the commercial quantity in relation to NDPS Act for contraband is of and above 20 kg. However, the expression ‘ganja’ defined in Section 2(b) and (c)

explicitly includes only 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’ thus, 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 FIR, what was found 148.89 kgs of contraband from the spot also includes seeds, tops, stems, flower etc. In these circumstances, prima facie, it is doubtful whether quantity can be said to be commercial one.

8. There is no other material on record to ascertain the weight of flowering or fruiting tops to constitute ganja. Therefore, at this juncture, prima facie, it would be doubtful whether the offence would be falling under Section 20(b) of the NDPS Act. In view of the aforesaid circumstances and in absence of record in respect of possession of flowering tops, the same cannot be regarded as alleged by the prosecution.

9. This Court in the case of **Laxman Shankar Ghankute Vs. State of Maharashtra** (Criminal Bail Application No. 2583 of 2019), decided 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 has been quantified by the prosecution.

10. Considering that the alleged contraband is recovered, nothing remains to be recovered at the instance of the applicant. The arrest of the applicant is effected on 12.09.2025 and since then, the applicant is in judicial custody. As such, the detention of the applicant as an under trial prisoner, in the circumstances of the case does not seem to be either warranted or justifiable.

11. In that view of the matter, I am persuaded to exercise the discretion in favor of the applicant. The learned APP's apprehension about tampering repetition of similar nature of offence, can be adequately taken care of by imposing stringent conditions. Accordingly, the following order :-

ORDER

(I) Application is **allowed**.

(II) Applicant – Ajay Narayan Chavan be released on regular bail on furnishing P.R. bond of Rs. 50,000/- (Fifty Thousand Only) with one or two local solvent

sureties in the like amount, in connection with Crime No. 452 of 2025 registered with Tasgaon Police Station, Dist. Sangli for the offences punishable under Sections 8(c), 8(b), 20(b)(i) and 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, on the following conditions :-

(a) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts either to the Court or to any Police Officer.

(b) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned Trial Judge in expeditious disposal of the trial against him.

(c) The applicant shall not indulge in similar type of offences in future.

(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 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.)