

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 220 OF 2026

Balasaheb Anandrao Pawar
VERSUS
The State Of Maharashtra And Anr

Advocate for Applicant : Mr. Saumitra Salunkhe a/w Mr. Pradip
Yadav i/b Ms. Swapnali Chavan
APP for Respondent-State : N. B. Patil

CORAM : SACHIN S. DESHMUKH, J.

Date : 24th March, 2026

PER COURT :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 03.02.2026 bearing Crime No. 29 of 2026 registered with Borgaon Police Station, Dist. Satara for the offences punishable under Sections 8 and 20(b)(ii)(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The case of the prosecution is that on 03.02.2026, acting on the secret information, a raid was conducted at the applicant's residence. During the said operation, approximately total 3.950 kg of ganja (cannabis) was allegedly recovered and seized. Following an initial inquiry, police registered FIR No. 29 of 2026, leading to the investigation that resulted in the arrest of the applicant.

3. The learned counsel for the applicant submits that the applicant is falsely implicated in the offence and has no criminal antecedents. The applicant is an agriculturist. It is further submitted that 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 total 3.950 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 intermediate 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 04.02.2006 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.

12. In view of the aforesaid reasons, the request of the applicant warrants consideration. Accordingly, the following order :-

ORDER

(I) Application is **allowed**.

(II) Applicant – Balasaheb Anandrao Pawar 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. 29 of 2026 registered with Borgaon Police Station, Dist. Satara for the offences punishable under Sections 8 and 20(b)(ii)(b) 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 attend the concerned Police Station on every Sunday from 11.00 am to 1.00 pm till filing of the charge-sheet.
 - (c) 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.
 - (d) The applicant shall not indulge in similar type of offences in future.
 - (e) 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.)