

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 341 OF 2026

Shubham Prakash Pawar

VERSUS

The State of Maharashtra And Anr.

...

Mr. Pradeep Yadav, Advocate for Applicant.

Mr. Nitin B. Patil, APP for the Respondent-State.

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CORAM : SACHIN S. DESHMUKH, J.

DATE : 6th MAY, 2026

P. C. :

1. The applicant seeks regular bail in connection with Crime No. 29 of 2026 dated 03.02.2026 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 (Hereinafter referred to as "NDPS Act").

2. The learned counsel for the 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. Since the trial is likely to take time, and the applicant is an agriculturist, as such, there is no flight

risk, the counsel has prayed that the application be allowed.

3. The learned APP opposed the application, submitting that the offence is serious in nature and almost 4.00 Kg. Ganja is recovered at the instance of the applicant. There are criminal antecedents. Thus, expressed the apprehension that the applicant may commit another offence of similar nature, if released on bail.

4. Upon considering the submissions of both the sides and perusing the material on record, including the charge-sheet, the inventory certificate is prepared and the material *prima facie* does not fall within the commercial quantity. However, the expression ‘ganja’ defined 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.

5. The expression ‘ganja’ 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.

6. In the present case, as is evident from the FIR, what is recovered at the instance of the applicant does not constitute ganja as per the definition under the NDPS Act. The inventory certificate that the weight of the contraband is carried out along with the other parts of the plants, such as, seeds, stalks and leaves, thereby casting doubt with regard to the weight of quantity. In any case, the same is not commercial quantity.

7. While the prosecution highlights the applicants' criminal antecedents, it is a settled principle of law in the case of ***Prabhakar Tewari Vs. State of U.P and another¹*** that mere existence of prior cases does not serve as a ground to deny bail, if the facts of the current case, fail to establish a prima facie necessity for continued incarceration.

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

ORDER

- (I) Application is **allowed**.
- (II) Applicant - Shubham Prakash Pawar be released on bail, on furnishing P.R. bond in the sum of Rs.50,000/- (Rs.Fifty Thousand) with

¹ (2020) 11 SCC 648

one or two local solvent sureties, in the like amount, in connection with Crime No. 29 of 2026 dated 03.02.2026 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 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.]