

S.S.Kilaje

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 557 OF 2025

Nilesh @ Tushar Ashok Borse

... Applicant

VERSUS

State Of Maharashtra

... Respondent

Mr. Nadeem Khan i/b. Ms. Sadiya Khan, Advocate for the Applicant.

Mr. B. B. Kulkarni, APP for the Respondent – State.

PSI – Mr. Mukteshwar Lad, N.D.P.S.Cell, Nashik City, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th APRIL, 2026.

P.C. :

1. By this application, the Applicant is seeking regular bail in Crime No. 60 of 2024 registered with Mhasrul Police Station, Nashik, for the offences punishable under Sections 8(c), 20(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").

2. It is prosecution's case that on 18.03.2024, on secret information, police intercepted a car. In search of the said car, police found Ganja of total 101 kg 880 gm. The applicant and the co-accused were occupants of the said car.

3. It is contention of learned counsel for the applicant that the seized contraband was sent for analysis to CFSL and as per CFSL report, the sample consisted of heterogeneous mixture of leaves, seeds, stalk and

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stems. It is submitted that such a mixture does not fall within the definition of Ganja under Section 2(iii), which is restricted to flowering or fruiting tops of the cannabis plant. It is submitted that this Court, in various judgments, has held that heterogeneous mixture cannot be treated as Ganja for the purpose of determining quantity and requested to allow the application. He relied on :-

- i. Ibrahim Khwaja Miya Sayyed @ Raju Vs. The State of Maharashtra (B.A.No. 1296 of 2022);*
- ii. Mohammad Jakir Nawab Ali Vs. The State of Maharashtra (Criminal Application (BA) No. 602 of 2024);*
- iii. Rahul Bhimrao Pawar Vs. The State of Maharashtra (B.A. No. 2977 of 2021);*
- iv. Suresh Maruti Pawar Vs. The State of Maharashtra (B.A.No. 1599 of 2020);*
- v. Hari Mahadu Valse Vs. The State of Maharashtra (B.A. 2299 of 2019);*
- vi. Chand Riyaz Shaikh s/o. Riyaz Shaikh Vs. The Union of India and Anr.(B.A.No. 3269 of 2022).*

4. It is contention of learned APP that commercial quantity of Ganja has been seized in the car, of which applicant was occupant. The seized contraband contains leaves, seed, stalks and stems, the same does not dilute the prosecution's case as the quantity recovered is substantial and requested to reject the application. He relied on *Shiv Kumar Mishra*

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Vs. State of Goa¹.

5. I have heard both the learned counsel. Perused chargesheet and documents produced on record. The CFSL report shows that heterogeneous mixture of Ganja was sent for the examination. This Court (Coram: Smt. Anuja Prabhudessai, J.) has held that the heterogeneous mixture cannot fall under the definition of “Ganja” under NDPS Act. The applicant is behind the bars for more than two years and one month. There is no progress in the trial. The applicant has no antecedents under the NDPS Act and I pass following order :

ORDER

- i. The applicant be enlarged on bail in C.R.No. 60 of 2024 registered with Mhasrul Police Station, Nashik, on executing P.R.Bond of Rs. 30,000/- on furnishing one or two sureties in the like amount.
 - ii. The applicant shall attend the concerned police station as and when required.
 - iii. The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
6. The application is allowed in the aforesaid terms and is

¹ (2009) 3 SCC 797

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accordingly disposed of. All pending applications, if any, disposed of.

7. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)