

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 162/2026

(Gajanan Ashok Dahale Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. S. Sheikh, Advocate for applicant.
Ms. T. H. Udeshi, APP for non-applicant/State.

CORAM: M. M. NERLIKAR, J.

DATED : 26/02/2026.

Heard.

2. By this application, the applicant is seeking bail in connection with Crime No.517/2025 registered with Police Station Umarkhed, Tq. Umarkhed, Dist. Yavatmal for the offence punishable under Sections 8(c), 20(b)(ii), 20(b) of the Narcotic Drugs and Psychotropic Act, 1985 ("NDPS Act).

3. Brief facts of the prosecution story is that the informant has lodged the report alleging that on 09.07.2025, API Yogesh Pandharinath Jadhao received information that applicant is coming from Umarkhed-Mahagaon road with Ganja with an intent to sell to someone, therefore complying necessary conditions as per NDPS Act raid was conducted. When the search of the applicant was made, they found 2 kg and 313 gram ganja

in the possession of applicant and accordingly FIR was lodged.

4. The principal submission made by the applicant is that the contraband which was seized is not ganja. The article which was sent for CA analysis was greenish, brownish colored flowering tops, leaves, seeds and stalks in a press sealed polythene. That article was analyzed by the Regional Forensic Science Laboratory and result of analysis is that the article is ganja. The learned counsel submits that the same is not what was seized from the applicant. The contraband which was seized greenish, blackish, wet and dry which only smelled like ganja. The description of the contraband as stated in panchanama and the contraband referred in the examination report of Regional Forensic Science Laboratory, prima facie it appears to be different. In the panchanama, it nowhere refers that the Investigating Agency has seized flowering tops, seeds and stalks. However, the flowering tops, leaves, seeds and stalks are sent for examination. The learned counsel has relied on the order of this court in the case of ***Anandrao Govardhan Jadhav Vs. State of Maharashtra in Criminal Application (BA) No.172/2023*** which dealt with the

identical situation. Therefore, the learned counsel appearing for the applicant submits that considering this major discrepancy the applicant be released on bail.

5. On the other hand the learned APP vehemently opposes the application and submits that it is the same article (contraband) seized which was sent for chemical analysis. She submits that, even if we take the definition of ganja defined under section 2(iii)(b) of the NDPS Act, it would be sufficient to infer that the police authorities have seized the entire plant along with the flowering tops, leaves, seeds and stalks, therefore according to her, there is no discrepancy in the seizure panchanama and the contraband sent for the CA examination. She further submits that the applicant was caught red handed along with the contraband. There are several offences registered against the applicant and that to 13 in number. The learned APP submits that three times the applicant was detained under the Maharashtra Prevention of Dangerous Activities Act, 1981 ("MPDA Act"). To this, the learned counsel for the applicant submits that though the proceedings under the MPDA Act have been initiated and acted upon, however all the three times the order of the

competent authority was quashed by this Court. He further submits that so far as the cases registered against him are concerned not a single case is registered against the applicant under the NDPS Act and this is the first case, wherein the applicant is falsely implicated. Therefore, the learned APP submits that considering the nature of allegations and background of the applicant, the applicant does not deserve to be enlarged on bail.

6. I have considered the rival submissions. This Court in the case of Anandrao Govardhan Jadhav (*supra*) has dealt with identical issue in respect of discrepancy in the seizure and sending of the contraband for a CA, and accordingly this Court in paragraph 6 has held as under:-

6. Learned counsel has then referred to the judgment of this Court (Coram: Mrs. Mridula Bhatkar, J.) dated 25.03.2015 in Bail Application No.2522/2014 (Sandip Ashok Raut Vs. The State of Maharashtra). This Court, in somewhat similar facts, has observed in paragraph 5 thus:

"5. The C.A. report shows that greenish flowering tops pieces and other material were sent to the C.A. and the report is positive. However, as it is rightly pointed by the learned Counsel for the

applicant/accused that in the description of the seizure panchanama, nowhere the police have mentioned that the material found was with flowering or fruiting tops alongwith the seeds, leaves and stalks. It is to be noted that in the definition, the Legislature has specifically excluded seeds and leaves and specifically mentioned that cannabis means fruiting or flowering tops. There may be seeds and other portion of that shrub alongwith the flowering or fruiting tops but the flowering and fruiting top is a necessary ingredient of definition of ganja, i.e., cannabis under the Act."

7. Now so far as the present case is concerned, spot seizure panchanama shows that the Investigating Agency has seized green, blackish, dry and wet substance smelling like ganja. However, while forwarding the contraband, it appears from the CA report that greenish brownish colored flowering tops, leaves, seeds and stalks in a press sealed polythene was forwarded. Apparently, it appears from both of these documents that what has been seized is not matching with the CA report, therefore the above observations of this Court is squarely applicable to the present case.

8. So far as the criminal background of the present applicant is concerned, though 13 offences are registered against the applicant, however it appears that there is no offence registered against the applicant under the NDPS Act and this is the first offence. So far as the action under the MPDA Act is concerned, admittedly it appears that this Court has quashed and set aside the orders from time to time. Considering the fact that the description of the contraband in seizure memo is not matching with the CA report, I am inclined to grant bail. Merely some offences are registered against the applicant that by itself is not sufficient when on merits the applicant has made out a case to release him on bail. In this view of the matter the following order is passed:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Gajanan Ashok Dahale, be released on bail in connection with Crime No. 517/2025 registered with Police Station Umarkhed, Tq. Umarkhed, Dist. Yavatmal for the offence punishable under Sections 8(c), 20(b)(ii), 20(b) of the NDPS Act on his furnishing P.R. Bond of Rs. 25,000/- with one surety in the like amount.

(iii) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

(iv) The accused shall provide his residential address and cell number to concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.

(v) The applicant/accused shall attend each and every date of trial regularly. If he fails to attend the trial for two consecutive dates or fails to comply with the aforesaid conditions, his default would entails the State to ask for cancellation of bail.

(M. M. NERLIKAR, J.)