

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

CRIMINAL APPLICATION NO.350 OF 2026

Palash V. Wankhede

..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

Shri A.A. Naik, Senior Counsel a/b Shri Shavez H. Mansuri,
Advocate for the applicant.
Shri A.R. Chutke, APP for the State.

CORAM: M.M. NERLIKAR, J.
DATE : 17.04.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.468 of 2025 registered with the Kalmana Police Station, Nagpur City for the offences punishable under Sections 8(c), 20(b)(ii) (c), 29 of the Narcotic Drugs and Psychotropic Substances, Act, 1985.

3. The FIR came to be lodged against the applicant alleging that on the secret information, the officers of the Kalmana police station laid a trap and reached at the spot i.e. a public road, where it was found that some persons were unloading gunny bags from the Eicher truck and transferring them into a black colored Mahindra XUV 500. Two persons were found on the spot and on inquiry they disclosed their names as Avinash and Palash. The Police officials conducted search of the truck and Mahindra XUV 500 and seized total 108.007 kg of ganja and therefore FIR came to be registered against the accused persons.

4. Learned Counsel for the applicant submits that two vehicles i.e. the truck and Mahindra XUV 500 ('the car') were apprehended by the police officials and on conducting the search four gunny bags were found in the truck and two gunny bags were found in the car. So far as the present applicant is concerned, he was present in the car. As per the prosecution case, when the car was apprehended two gunny bags containing 14.174 kg and 25.985 kg of Ganja respectively were found in the said car which was driven by the applicant. It is submitted by the learned Senior Counsel that the description of the contraband as referred in the FIR reads as under :

“...झाडपत्ती सारखा हिरवट काळसर बिजा असलेला व पिवळसर रंगाचा उग्र वास येणारा ओलसर गांजा दिसुन आला...”

5. He further submitted that the description given in the FIR and in the spot panchanama is one and the same. However so far as the forensic report is concerned which is referred as crime scene report, totally different description of the said contraband has been given, which reads as under :

“ Greenish brownish flowering and fruiting tops, stalks and stem with leaves like substances in yellow colour bag.”

6. He further submitted that in the Inventory Certificate no description of the contraband is given and only it refers to Ganja. He further invited my attention to the contraband sent for chemical analysis, which gives description of articles as under :

“Greenish brownish coloured leaves, flowering tops, seeds and stalks.”

7. Further, from perusal of the investigation papers

somewhere in description of the contraband seeds are shown and somewhere seeds are not shown. The Crime Scene report recorded by the forensic team shows flowering and fruiting tops whereas the description given in the CA report shows only flowering tops and, 'fruiting tops' is missing. Further though in the Crime Scene report of the forensic team, there is no mention of seeds in the description, however in the CA report presence of seeds is recorded. In such circumstances, according to the learned Senior Counsel these discrepancies goes to the root of the matter and therefore, casts a serious doubt on the prosecution case as to whether the contraband which was seized from the spot is the same as was sent for analysis. Therefore, under such circumstances, it is very difficult to ascertain whether the same contraband which was seized from the spot was sent for analysis. To substantiate the aforesaid contentions, learned Senior Counsel placed reliance on the judgment of this Court in the case of ***Kunal Dattu Kadu vs. Union of India 2022 SCC OnLine Bom 1770***.

8. On the other hand, learned APP vehemently opposed the application on the ground that commercial quantity of ganja was seized from accused persons. The total quantity seized from the car was weighing 40.159 kg whereas from the Truck 67.484 kg. of ganja was seized. Both the vehicles were coming from Odisha and they were intercepted near HB town, Nagpur. He further invited my attention to the FIR showing that the contraband referred in the FIR is nothing but Ganja. There are some discrepancies in the FIR, inventory report and crime scene report recorded by the forensic

department but they are not helpful to the applicant. He mainly relied on the forensic report wherein there is specific mentioning of greenish brownish flowering and fruiting tops, stalks and stem with leaves like substances in yellow colour bag to submit that this itself is sufficient to infer that the said contraband was nothing but Ganja. Even CA report discloses that the seized contraband is ganja. Under such circumstances, when commercial quantity was found with the applicant in the car automatically rigour of Section 37 would be applicable. Therefore according to the learned APP, the applicant does not deserve to be enlarged on bail.

9. I have considered the rival submissions and perused the record. It appears that the contraband which was seized from the applicant and referred in the FIR was of commercial quantity i.e. 40.159 kg. In the FIR and seizure spot panchanama, the description of the contraband is wet yellow coloured ganja with greenish blackish seeds and leaves with a strong smell. It is further to be noted that the forensic team was called on the same day wherein they have referred the contraband as greenish brownish flowering and fruiting tops, stalks and stem with leaves like substances. Even if it is considered that the crime scene report is recorded by the forensic team, it differs from the inventory report which only states Ganja as well as the contraband sent for chemical analysis which is shown as greenish brownish coloured leaves, flowering tops, seeds and stalks. There are discrepancies in all these three documents. Further a major discrepancy appears in the crime scene report and the samples sent to the Regional Forensic Laboratory is

absence of fruiting tops in the sample sent by the prosecuting agency. There is also no mention of seeds in the crime scene report, however FIR and spot panchanama shows seeds. Therefore, these discrepancies goes to the root of the matter. In such circumstances, it would be useful to refer to the order of this Court in the case of *Kunal Dattu Kadu vs. Union of India (supra)*, wherein this Court has specifically in paragraphs 16 and 28 observed as under :

“16. I do not agree with the observation of the learned senior Judge in the case of Mangilal (supra) that whether fruiting tops were sent or not can be determined during trial. It is the duty of the bureau to be assure of what substance is seized and what is forwarded for analysis as it cannot be left to the guess work of the trial Court.”

...

“28.Strangely, the report of analysis refer to the sample which is heterogeneous mixture of flowering and fruiting tops, bits of leaves, steam and stalk alongwith seeds of plant. Necessarily the entire mixture is weighed and found to be 43 Kg. on the basis of which the Applicant is charged for possession and delivering with commercial quantity of Ganja. The discrepancy in what was seized and what was analyzed, prima-facie satisfy me that there are reasonable grounds for believing that the Applicant is not guilty of offences of dealing in commercial quantity and in absence of any antecedent he is not likely to commit any offence on bail.”

10. Under such circumstances, though commercial quantity was seized from the applicant which would automatically trigger the rigour of Section 37 however when there are so many discrepancies as observed above

in the investigation papers relating to description of the contraband, under such circumstances, it creates a reasonable doubt for believing that the contraband which was seized from the applicant is not the same which was sent for chemical analysis.

11. Needless to mention that the investigating officer ought to have taken due care and caution while dealing with the said contraband when commercial quantity is involved. Admittedly, it appears that the Investigating Officer or the Police Agency have not taken due care and caution while referring the contraband in a proper manner.

12. It is also to be mentioned at this juncture that there are no criminal antecedents against the applicant. Therefore, as the investigation is complete and charge-sheet is filed and the applicant is behind bars since 03.06.2025, I am inclined to enlarge the applicant on bail. Hence the following order :

- (a) The application is allowed.
- (b) The applicant Palash V. Wankhede in connection with Crime No.468 of 2025 registered with the Kalmana Police Station, Nagpur City be released on bail on furnishing P.R. bond of Rs.50,000/- with one surety in the like amount.
- (c) The applicant 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.

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

(e) The applicant 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 entail the State to ask for cancellation of bail.

13. The observations are *prima facie* in nature and the Trial Court shall not be influenced by the same .

14. All Misc. application(s), pending if any, shall stands disposed of accordingly.

(M.M. NERLIKAR, J.)

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