

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

CRIMINAL APPLICATION NO.407 OF 2026

Mohan Yashwant Kowachi

..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 I.K. Daudasare, Advocate for the applicant.
Shri A.G. Mate, APP for the State.

CORAM: M.M. NERLIKAR, J.
DATE : 30.04.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.59 of 2025 registered with the Purada Police Station, Tq. Kurkheda, Dist. Gadchiroli for the offences punishable under Sections 8(b), 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances, Act ('NDPS Act'), 1985.

3. The FIR came to be lodged against the applicant alleging that on the secret information, the officers of the Purada police station laid a trap and reached at the spot i.e. the house of the applicant, where during search, they found moist green color cannabis (Ganja) in four gunny bags, ganja was weighing total 28.050 kg and therefore FIR came to be registered against the applicant.

4. Learned Counsel for the applicant submits that in the FIR the contraband was shown as wet dark green leaves having flowering tops and seeds. Even in the Seizure Panchanama the same description of Ganja was shown. However, when the inventory was drawn it was

described as “dry leaves are dark greenish and the seeds are brown in color”. The samples were drawn before the Magistrate from the inventory, which was produced before the Magistrate. He further points out the requisition letter forwarded to the CFSL wherein S1 and S2 samples which were drawn before the Magistrate were having seal, signatures of the Magistrate as well as Panchas, were sent for chemical analysis. However, in the CA report description of contraband was shown as “Greenish, brownish coloured leaves, flowering tops, seeds and stalks” which were exhibited as ‘Exhibit Nos. (1) and (2)’ i.e. S-1 and S-2. Therefore, the samples which were drawn before the Magistrate were not sent for analysis. Though the CA shows that contraband article is Ganja however this discrepancy 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. Hence, the applicant deserves to be enlarged on bail.

5. On the other hand, learned APP vehemently opposed the application on the ground that commercial quantity of ganja was seized from the applicant. The total quantity of ganja was seized from the house of the applicant was weighing 28.050 kg. He further submits that under such circumstances, when commercial quantity was found with the applicant in the house automatically rigour of Section 37 of the NDPS Act would be applicable and under such circumstance, the person involved in the offence, cannot be released on bail, unless the Court is satisfied that there is a

reasonable ground for believing that the accused is not guilty of the offence. It is submitted that right from the beginning i.e. from registration of FIR, seizure of contraband and other relevant papers shows that the description of the contraband is as was referred in the CA report and therefore, merely recording some incorrect description in the inventory that by itself is not sufficient to enlarge the applicant on bail and therefore, the application is prayed to be rejected.

6. I have considered the rival submissions and perused the record. It appears that the contraband which was seized from the house of the applicant and referred in the FIR was 28.050 kg. In the FIR the description of the contraband is shown as wet dark green leaves, flowering tops, buds and seeds. Even similar description is given of the contraband in the spot panchanama. Admittedly, the said contraband was produced before the Magistrate after 7 days of seizure and in inventory certificate description was "dry leaves are dark greenish and the seeds are brown in colour". The inventory further shows that one sample from each of the gunny bag was drawn and that was sealed before the panch witnesses, Investigating Officer and the Magistrate and numbered as Article S-1 and S-2. In the requisition letter sent to the CA it is stated that samples which were drawn from the inventory before the Magistrate those were sent for analysis to the Regional Forensic Science Laboratory.

7. It is important to note that as there is contradiction in the description of the contraband in the inventory and CA report, it creates a doubt as to whether

the samples which were drawn before the Magistrate are same that were sent to the Regional Forensic Science Laboratory. It is pertinent to note that though the challenge to the inventory report is a part of the trial and cannot be considered at this stage, however in the present case the glaring factor is that the sample which was sent for analysis was drawn from the inventory before the Magistrate and same goes to the root of the matter.

8. Under such circumstances, though commercial quantity was seized from the applicant which would automatically trigger the rigour of Section 37 however due to the aforesaid discrepancy, 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.

9. 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 20.05.2025, I am inclined to enlarge the applicant on bail. Hence the following order :

(a) The application is allowed.

(b) The applicant Mohan Yashwant Kowachi in connection with Crime No.59 of 2025 registered with the Purada Police Station, Tq. Kurkheda, Dist. Gadchiroli for the offences punishable under Sections 8(c), 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances, Act ('NDPS Act'), 1985 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.

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

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

(M.M. NERLIKAR, J.)