

(1) **Bail Application No.38/2026 (Order Exh.1)**

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
AT PAITHAN, DISTRICT AURANGABAD

MHAU170001692026



Bail Application No. 38 of 2026
Anand Pratap Jarwal Vs. State
of Maharashtra.
Crime No. 334 of 2025, U/s.
20(b)(ii) and 8(c) of NDPS Act,
Police Station Pachod, Tq.
Paithan, Dist. Aurangabad.

ORDER BELOW EXHIBIT 01

1. This is an application under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) for grant of bail by applicant Anand s/o Pratap Jarwal.
2. The Investigating Officer by filing his reply vide Exh. 04 has strongly opposed the application on the ground that the offence is serious. The applicant was found in possession 67 kg 500 gram ganja, which falls in commercial quantity. He has further submitted that the applicant is habitual offender and if he is released on bail, there is every possibility of repetition of the crime.
3. Heard learned counsel for applicant and learned APP for the State. Perused the application, reply and charge-sheet. It is submitted by learned counsel for applicant that the applicant has no concern with the place where the incident took place. It is further submitted that the entire contraband articles are recovered from the spot itself and now nothing remained to be recovered at the instance of

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this applicant. It is his further submission that the substance, alleged to have been seized, does not fall under the definition of 'Ganja' given under NDPS Act and therefore, the applicant deserve to be released on bail. It is his further submission that the Investigating Officer falsely included the neutral substances in the quantity of 'Ganja' to make it as a commercial quantity and therefore, the applicant deserve to be released on bail. He further submitted that the Hon'ble High Court granted bail to co-accused Meet Shyam Vaishnav vide its order dated 20.02.2026 in Bail Application No. 256/2026 and therefore, on the ground of parity, present applicant also deserves to be released on bail.

4. Per contra, learned APP submitted that the offence is serious one. The Ganja seized from the possession of applicant and other co-accused is of commercial quantity and therefore, bail may not be granted to the applicant. Police have complied all the statutory requirements and therefore, applicant is not entitled to bail. If the applicant is released on bail, there is possibility of commission of similar offence. Lastly, he prayed to reject the application.

5. At the out set, I would like to point out that section 37 of the NDPS Act provides that no person accused of an offence involving commercial quantity shall be released on bail unless the twin conditions laid down therein are satisfied, namely, (i) the public prosecutor has been given an opportunity to oppose the bail application, and (ii) the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and that

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he is not likely to commit any such offence while on bail.

6. In the case in hand, the alleged quantity of Ganja is 67 kg 500 grams, and as per the notification issued by Central Government dated 19-10-2001 in exercise of the powers under clauses (viia) and (xxiiia) of section 2 of NDPS Act, this quantity of Ganja falls under the category of 'commercial quantity' as it is greater than 20 kg, which is prescribed at Sr.No. 55 in the table given under the notification. Therefore, applicant has to *prima facie* establish that there are reasonable grounds for believing that he is not guilty of the alleged offence and that he is not likely to commit any offence while on bail.

7. On perusal of police papers, it seems that the police effected raid in agricultural field Gut No. 126 situated at Dabhrul Shivar, where the present applicant alongwith other co-accused were found. On seeing police, three accused persons ran away from the spot and the police had apprehended co-accused namely Ramsing Jarwal, Ramesh Nareda, Rameshwar Bamnat and Meet Vaishnav on the spot. These persons disclosed names of the persons who fled away from the spot as Kesarsing Dhansing Jarwal, Nilesh @ Bandi Babulal Sulane and Anand Pratap Jarwal (present applicant). On enquiry by police, the co-accused further disclosed that they cultivates the said land on Batai basis and the land is owned by Gorakshanath Shinde, r/o Zalta, Tq.&Dist. Chhatrapati Sambhajinagar. They showed the room in said field to police and in said room, four gunny bags containing Ganja

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was found in one room. The police seized said ganja weighing 67 kg 500 grams from the spot. They also seized mobile phones and motorcycles from the possession of above-said apprehended accused. The inventory prepared by the learned Judicial Magistrate shows that the gunny bags were contained with greenish colour leaves having seeds and flowers. Thus, the applicant alongwith other co-accused were found in possession of Ganja, which is of commercial quantity.

8. So far as the submission of learned counsel for applicant regarding the inclusion of neutral substances in making the quantity of Ganja as commercial quantity is concerned, I would like to point out the judgment of **Hira Singh Vs. Union of India, reported in (2020) 20 SCC 272**, wherein the Hon'ble Supreme Court held that "in case of seizure of mixture of narcotic drugs or psychotropic substance with one or more neutral substance(s), the quantity of neutral substance(s) is not to be excluded and to be taken into consideration alongwith actual content by weight of the offending drug, while determining the "small or commercial quantity" of the narcotic drugs or psychotropic substances." Therefore, there is no substance in the submission of learned counsel for applicant.

9. So far as the submission of learned counsel for applicant that the substance, alleged to have been seized, does not fall under the definition of 'Ganja' given under NDPS Act is concerned, I would like to point out that the FIR itself shows that Assistant Chemical Analyzer and Assistant Scientific Analyst examined the substance and informed

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the informant that the same is Ganja. Moreover, the inventory prepared by the learned Judicial Magistrate shows that the gunny bags were contained with greenish colour leaves having seeds and flowers. Therefore, there is no substance in the submission of learned counsel for applicant.

10. So far as the submission regarding entitlement of bail on the ground of parity is concerned, I would like to point out that the bail on the ground of parity can be claimed from the same Court that granted bail to a co-accused and since the bail has not been granted to co-accused by this Court, applicant will not be entitled to claim bail on the ground of parity from this Court.

11. Applicant has not brought anything on record on the basis of which the Court can record the finding that he is not *prima facie* guilty of the alleged offence and that he is not likely to commit any offence, if released on bail. Therefore, he is not entitled to bail. Hence, I proceed to pass following order :-

ORDER

Application is rejected.

Date : 16.03.2026

(R.D.Gadwe)
Additional Sessions Judge,
Paithan