

CNR No.MHCH01-000021-2026

Spl. (NDPS) Case No.1/2026
(State Vs. Waseem Khan)

Order Below Exh.14
(Dated 12.06.2026)

This is a successive application for regular bail filed by Accused **Waseem Khan Imdad Khan** under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in Crime No.151/2025 registered at Padoli Police Station, Tq. & Dist. Chandrapur, for offences punishable under Sections 8(c), 22(c), and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The applicant has been in judicial custody since 06-10-2025.

2. The prosecution case in nutshell is that on receipt of confidential information, the police intercepted a car on 05.10.2025 in which present applicant along with three other persons were travelling from Mumbai. Upon search of the car, 528 grams of Mephedrone (MD) which is a psychotropic substance was allegedly recovered. The accused/applicant was arrested on 06.10.2025. Thereafter, offence was registered. After investigation, the present applicant/ accused has been charge-sheeted. The other persons in the said vehicle have not been made accused in the said crime.

3. I have heard Ld. Advocate Shri V. S. Tandon for the applicant and Ld. Special Public Prosecutor Shri. S. B. Nagpure for State. I have perused the record. The present application and the say thereon filed overleaf the application by Ld. Special Public Prosecutor for State.

4. The earlier application filed by the applicant/accused for regular bail came to be rejected on merits by this Court vide order dated 17.03.2026. It is the contention of the Ld. Counsel of the

applicant/accused that, in the earlier application the point of incomplete charge-sheet was not brought to the notice of this Court. In the present matter, FSL/CA Report was not filed along with the charge-sheet. The CA Report was not filed by the prosecution even in the past 5 months. This fact creates serious doubt regarding fairness of the investigation and affects the credibility of prosecution case. It is submitted by the Ld. Advocate for the accused that, non filing of FSL/CA Report along with the charge-sheet is a serious legal defect which create serious doubts about the prosecution case and fairness in the investigation.

5. It is further argued by the Ld. Advocate for the applicant/accused that, the Hon'ble Bombay High Court, Bench at Nagpur by order dated 20.04.2026 passed in Criminal Application (BA) No. 376/2026 (Ashish Walke Vs. State) had specifically taken into consideration the fact that, charge-sheet was filed without chemical analysis report and the said report was subsequently brought on record belatedly which affects of the right of the accused. It is further argued by the Ld. Advocate for the applicant/accused that, the Hon'ble Bombay High Court has also considered and referred the case Cri Appeal No.2088/2025 Jabir Kha Vs. State of Madhya Pradesh arising out of SLP (Criminal) No.2993/2025 and had clarified in the bail order of Ashish Walke supra that the Trial Court cannot accept the Chemical Analysis Report without supplementary charge-sheet.

6. It is also contended on behalf of the applicant/accused that in the case Ashish Walke supra, the Hon'ble Bombay High Court has specifically clarified that, the accused would be entitled for bail under Sec.187(3) of BNSS since the charge-sheet was filed without chemical analysis report. The bail application of the applicant/accused was rejected by this Court on 17.03.2026 and the order of the Hon'ble Bombay High Court, Bench at Nagpur in the case Ashish Walke supra

dated 20.04.2026 is the binding precedent and the same is squarely applicable to the present set of facts. Therefore, there is substantial change in circumstances for filing the present bail application for consideration afresh.

7. Per contra, the Ld. Special Public Prosecutor strongly opposed the application contending that, the recovered contraband is 528 grams Mephedrone (MD), which falls within the commercial quantity, thus it attracts the strict embargo under Sec.37 of NDPS Act. He further submits that, if the accused is released on bail, he may commit similar type of offence and misuse the liberty.

8. I have carefully gone through the record, the rival submissions and the order of the Hon'ble Bombay High Court dated 20.04.2026 passed in Criminal Application (BA) No.376/2026 Ashish Walke Vs. State of Maharashtra. The Hon'ble Bombay High Court has explicitly noted that, the charge-sheet in that case was filed without the FSL/CA Report and the report was only tendered subsequently without a supplementary charge-sheet. Applying the ratio of the Hon'ble Apex Court Judgment in Jabir Kha Vs. State of Madhya Pradesh supra the Hon'ble Apex Court held that, the Trial Court ought not to have accepted the Chemical Analysis Report without a supplementary charge-sheet, and that this procedural defect entitles the accused to be released on bail pending the Larger Bench decision in Mohd. Arbaz Kha and others Vs. State of NCT of Delhi, SLP (Crl.) Nos. 8164-8166 of 2021.

9. This Court had earlier rejected the present applicant's regular bail application by order dated 17.03.2026. After passing of the that order dated 17.03.2026, subsequently the order of the Hon'ble Bombay High Court in Ashish Prakash Walke supra was passed on dated 20.04.2026. In the present case charge-sheet is filed on 02.01.2026

without enclosing CA/FSL Report. In the present case CA/FSL Report is produced on record on **30.05.2026** by the prosecution. The perusal of the CA/FSL Report filed on the record reveals that the same was received at Police Station, Padoli, Dist. Chandrapur on **10.12.2025**. Thus, it is clear that FSL/CA Report was available with the concerned police station at the time of filing of charge-sheet. However, it was not filed by the prosecution with charge-sheet.

10. The fact of the present case and the aforesaid case Ashish Prakash Walke supra are identical on the point non filing of CA Report along with the charge-sheet and filing the same belated without supplementary charge-sheet. Therefore, though the previous bail application of the applicant was rejected, considering the subsequent ruling of the Hon'ble High Court, the judicial discipline mandates strict adherence to the subsequent binding ruling which is squarely applicable to factual matrix of non filing of CA/FSL Report along with the charge-sheet though it was available with the concerned police station at the time of filing of charge-sheet. The State's opposition regarding seriousness of the offence, while noted it does not extinguish the right of the accused/applicant which is founded upon procedural defect which the Hon'ble High Court found sufficient to overcome the rigour of Sec.37 of NDPS Act.

11. I find that, the prosecution has not satisfactorily explained as to why FSL/CA Report which is essential for completion of investigation was not filed along with the charge-sheet. The applicant is in custody since 06.10.2025 for a considerable period. There are no exceptional circumstances brought on record demonstrating possibility of absconding or tampering with the prosecution evidence.

12. Thus, considering the legal position governing the Sec.187 of BNSS, the nature of material placed on the record and ratio laid down by Hon'ble Supreme Court in Jabir Kha (supra) and the identical view taken by the Hon'ble Bombay High Court, Bench at Nagpur in the Case Ashish Walke (supra) this Court is of the considered opinion that the applicant has made out the case for grant of bail. Hence, following order is passed.

	<u>ORDER</u>
1.	The application is allowed.
2.	Applicant/Accused Waseem Khan Imdad Khan be released on regular bail in Crime No.151/2025 registered at Padoli Police Station, Tq. & Dist. Chandrapur, on executing a Personal Recognizance (PR.) Bond of Rs.1,00,000/- (Rupees One Lakh Only) with surety in the like amount.
3.	The applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, nor shall he tamper with the prosecution evidence.
4.	The applicant shall not commit any similar type of offence in the future. In case he is found to have indulged in a similar kind of offence, the State is at liberty to move for cancellation of bail.
5.	The applicant shall provide his current residential address and active mobile number to the Investigating Officer and shall not change his place of residence without prior intimation to the Court and the Investigating Officer.

6.	The applicant shall attend each and every date of the trial regularly. Failure to attend the trial without sufficient cause shall entail the State to ask for cancellation of bail.
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Sd/-

(**J. V. Muthal**)

Addl. Sessions Judge/
Special Judge,
Chandrapur.

Date :- 12.06.2026