

IN THE COURT OF ADDITIONAL SPECIAL JUDGE, CHANDRAPUR

MHCH010000362026

**Spl. (NDPS) Case No. 4/2026**

Rakshad s/o Prabhakar Atram	]	Applicant/Accused.
	]	

.V/s.

State of Maharashtra through	]	Respondent.
PSO, Police Station, Nagbhid,	]	
Tah. Nagbhid Dist. Chandrapur.	]	

Order Below Exh. 9

The applicant Rakshad s/o Prabhakar Atram has made this application u/s.483 of BNSS for releasing him on bail.

2. The facts in brief, for making this application, are as follows:

On 9.11.2025, the officers of Police Station Nagbhid Distt. Chandrapur got a specific and secret information that, applicant/accused has illegally cultivated cannabis plant in the back yard of his house situated at mouza Kanpa, Ta. Nagbhid. Thus, they conducted a raid at the house of the accused/applicant and found standing 47 plants of cannabis. The weight of the said cannabis plants was 23.910 kg. The police have seized those plants as per procedure. Thereafter, a report was given to Nagbhid police station against applicant/accused.

3. On that report, the officer in charge of the aforesaid police station has registered a crime no.381/2026 for the offence

punishable u/Ss. 8(c), 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substance Act, 1985 against applicant/accused. In this crime, applicant/accused was arrested on 10/11/2025 and since then he is in custody. Thus, the applicant/accused made this application for releasing him on bail.

4. Ld. Advocate for the applicant/accused submits that the applicant/accused is having no concern with the said offence and he is falsely implicated in it. He submits that the place from where the alleged cannabis plants were seized never belonged to the applicant/accused. He submits that, seized cannabis plants do not come under the definition of ganja given u/s. 2(iii)(b) of the NDPS Act, therefore the seized contraband cannot be considered as of commercial quantity, consequently the rigor of section 37 of the said Act would not apply to this case. He submits that, the investigation of crime is completed and charge-sheet is filed in the court. He submits that the applicant/accused is having no criminal antecedents. He submits that applicant/accused is ready to abide by all the terms and conditions imposed by this Court, if bail is granted. He submits that, previous bail application was rejected. However, that time the applicant could not raise the point of incomplete chargesheet and failure of the prosecution to file CA report even after expiry of 180 days after arrest of the accused. Therefore, he submits that there is substantial change in circumstances on facts and as well as law as laid down by Hon'ble Supreme Court and Hon'ble Bombay High Court. The Ld Advocate for accused has placed his reliance on following judgments.

- a) Jabir Kha vs. State of Madhya Pradesh (Criminal Appeal No 2088 of 2025) Honble Supreme Court
- b) Ashish Prakash Walke vs State of Maharashtra, Through Police Station Ramnagar Criminal Application (BA). 376 Of 2026 decided on 20.4.2026 Honble High Court Nagpur Bench.
- c) Bhaiyyaji Mahadeo Kulmethe vs State of Maharashtra Criminal Application No. 1161 of 2025.

5. Ld Advocate for applicant further submitted that in view of the aforesaid rulings the applicant is entitled for bail. It is submitted that accused was arrested on 10.11.2025. He was remanded to judicial custody on 11.11.2025. Chargesheet is filed on 5.1.2026 without filing of CA report. CA report is filed in Court on 15.06.2026. It is submitted that it is beyond the period of 180 days from the day of first remand of the accused. Thus, police had filed incomplete chargesheet earlier. Later, on expiry of more than 215 days simply filed the CA report without filing the supplementary chargesheet. Therefore, the Ld Advocate has submitted that the ruling supra in Jabir Kha will have application to the case of applicant. According to him the same principle is reiterated by Honble Bombay High Court in the case of Ashish Walke supra wherein also CA reports were not filed along with chargesheet but they were filed belatedly without supplementary chargesheet. He further submits that said ground was not raised in earlier bail application. He submits that, the investigation of the crime is completed and charge-sheet is already filed in the court, there is change in circumstances to make this successive bail application. He

submits that the seized plants contained green leaves, roots, branches and other material as shown in inventory and photographs, which do not come within the definition of Ganja as per section 2(iii) b of NDPS Act. Therefore, the decision in Bhaiyyaji Kulmethe supra is also applicable to the facts of the present case. He prayed for grant of bail to the applicant/ accused. Elaborating the said contention, it is submitted that such subsequent filing of the CA Report constitutes a material change in circumstance.

6. The Ld. Spl.PP for the State has filed his say to the bail application. The Ld. Spl.PP Shri D.V. Mahajan submits that, nature of the offence is serious and during the investigation aforesaid plants of ganja were seized from applicant/accused. He submits that, prima-facie material came on record to show that applicant/accused has committed the said crime. He submits that if bail is granted then there is possibility that applicant/accused may commit similar type of offence, in future. He submits that, previous bail application was rejected by the court and there is no change in circumstances to make this successive bail application. He prayed for rejection of the bail application.

7. Perused the bail application, say thereon and charge-sheet. Heard Learned Advocate for applicant/accused and Learned Spl.PP for the State. The allegations against the applicant/accused are that he had illegally cultivated cannabis plants in backyard of his house. It is further alleged that, the said cannabis is of commercial quantity. It comes to my knowledge that, the IO has seized cannabis plants from the backyard of applicant/accused. The said cannabis

plants contained green leaves, stalks, roots, flowering tops and seeds in wet condition. Thus, the seized plants whether fulfill the definition of ganja or not is a matter for trial. Therefore, the seized contraband weighing 23.910 kg. whether it is of commercial quantity or not will be decided at trial. As regards the submission concerning delayed filing of the Chemical Analysis Report, the record indicates that the charge-sheet was filed on 05.01.2026 without the CA Report and that the said report was subsequently produced before the Court on 15.06.2026 without filing any supplementary charge-sheet. The learned Advocate has rightly relied upon the observations of the Hon'ble Supreme Court in Jabir Kha and the decision of the Hon'ble Bombay High Court in Ashish Prakash Walke supra. It has been held by Honble Supreme Court in Jabir Kha supra that filing of CA report without supplementary charge-sheet is a procedural defect which entitles the accused for grant of bail. The same principle is reiterated in Ashish Walke case supra of Hon'ble Bombay High Court. Therefore, judicial discipline mandates adherence to strict binding ruling of Hon'ble High Court. Therefore, the foundational procedural defect is sufficient to overcome the rigorous of the section 37 of the NDPS Act. Thus, in view of the precedent set by Aashish Walke case supra the applicant has made of the case for regular bail. The application, therefore, deserves to be allowed.

8. The investigation has already been completed and the charge-sheet has been filed. The applicant has remained in custody since 10.11.2025. There are no criminal antecedents attributed to the applicant. Nothing substantial has been brought on record by the prosecution to indicate that, if released on bail, the applicant is likely

to abscond, tamper with the prosecution evidence or influence the witnesses. The presence of the applicant during trial can be secured by imposing appropriate conditions.

9. Considering the facts and circumstances of the case, I find sufficient reasons to grant bail with condition to applicant/accused. Hence, I proceed to pass following order.

ORDER

- 1] The bail application is hereby allowed.
- 2] Applicant/accused Rakshad s/o Prabhakar Atram arrested in crime no.381/2026 for the offence punishable u/Ss. 8(b), 20 (b)(ii) (C) of Narcotic Drugs and Psychotropic Substance Act, 1985 registered with police Station, Nagbhid, Ta. Nagbhid, Dist. Chandrapur, is hereby released on bail on furnishing P.R. bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one or two sureties of like amount, on following condition. -
 - a) He shall not tamper with the prosecution evidence in any manner.
 - b) He shall furnish his residential address with phone number and the address and phone number of his one relative.
 - c) He shall attend the court dates punctually.
- 3] Inform the concerned police station, accordingly.

Sd/-

Chandrapur.
Date :- 01.08.2026

(J.V. Muthal)
Judge, Special Court under
NDPS Act & ASJ, Chandrapur.