



IN THE COURT OF SESSIONS JUDGE, GADCHIROLI

(Presided over by Shri A. L. Tikle)

Sessions Case No.11/2026

**(State of Maharashtra through PSO,
Police Station, Purada (AOP Malewada)**

..vs..

Krushna Harsingh Boga)

O R D E R (Below Exh.6)

(Passed on : 16th May, 2026)

By this application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the applicant/accused has prayed for grant of bail in Crime No.111/2025 registered with the Police Station, Purada, District - Gadchiroli for the offences punishable under Sections 8(c), 20(b), 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (for short 'NDPS').

2] The prosecution has come with the case, that there was a secrete information that, the applicant was cultivating the ganja in the backyard of his house. The information was received by an Assistant Police Inspector attached to the Local Crime Branch, Gadchiroli (LCB). The information was transmitted to the Police Inspector of the LCB. A permission was sought from the Superintendent of Police, District – Gadchiroli (S.P). After grant of the permission, ASI Samadhan Kisanrao Daud (the informant) proceeded to the spot. All the necessary arrangements were made including two government servants to act as panchas, one person to carry out measurement, a photographer and all the required number of the police personnels. On 13.11.2025 itself a raid was conducted at the house of the applicant. It was found, that the

applicant was cultivating the ganja plants (cannabis plants). There was compliance under Section 50(1) of the NDPS Act. A huge quantity of the ganja i.e. 240 kilograms was seized from the spot. As such the prosecution has come with the case, that the applicant committed the above offences.

3] I have heard Mr. I.K. Daudasare, the learned counsel for the applicant/accused and Mr. A.S. Pradhan, the learned PP for the prosecution, in support of the application and say by the prosecution, respectively. Their contentions are dealt specifically as and when as required below.

4] It is matter of record, that after completion of investigation, a charge-sheet has been filed and the case is pending in this court bearing no.11/20206 as above. Hence, at least for a purpose of the investigation, further detention of the applicant is not required.

5] In support of his contention and submissions, Mr. Daudasare has relied on the following judgments;

- i] **Criminal Application (BA) No.1495 of 2022, Mohammad Isaruddin Vs. State of Maharashtra, AIRonline 2023 Bom 1442,**
- ii] **Criminal Bail Application No.2254 of 2024, Chandrabhan Janardhan Yadav vs. State of Maharashtra, with Criminal Bail Application No.262 of 2025, Sandip Rambriksh Prajapati vs. State of Maharashtra, with Criminal Bail Application No.266 of 2025, Vinod Rambachhan Prajapati vs. State of Maharashtra, with Criminal Bail Application No.4709 of 2024, Kunjan Bhagwan Vishwakarma vs. State of Maharashtra, decided on 04.03.2025 by the Honourable Bombay High Court;**
- iii] **Bail Application No.578 of 2021, Raju Bhavlal Pawar vs. State of Maharashtra, decided on 26.10.2021 by the Bombay High Court, AIR Online 2021 Bom 5193,**
- iv] **Criminal Appeal No. 1375 of 2008, Kishan Chand vs. State of Haryana decided on 13.12.2012 by the Honourable Supreme Court,**

- v] CRM (NDPS) 546 of 2023, Abdul Rakib vs. The State of West Bengal, decided on 25.8.2023 by the Honourable High Court of Calcutta,
- vi] Misc. Criminal Application No.7965 of 2011, Dayaram Singh and Another Vs. State of Madhya Pradesh, 2024 SCC OnLine MP 1188,
- vii] Criminal Appeal No.2195 of 2005, Mihir Rajesh Shah Vs. State of Maharashtra and Another with Criminal Appeal No.2189 of 2025, Criminal Appeal No.2190 of 2025 & S.L.P (CRL.) No. 8704 of 2025, 2025 INSC 1288
- viii] Criminal Appeal No. of 2025,(Arising out of SLP (Cri.)No.13320 of 2024),Vihaan Kumar Vs. State of Haryana & Anr.,2025INSC 162

6] The contentions in short are, that the articles found cannot be termed as the ganja as the definition under Section 2(iii)(b) of the NDPS Act, and if yes, not of commercial quantity.

7] To treat any cannabis plant as the ganja, it has to be only flowering of fruiting tops. Any other part of such cannabis plant cannot be treated as the ganja. Further, he has contended, that the information was not reduced into writing as mandated under Section 42 of the NDPS Act. Thereafter, a copy of the said information was not transmitted to a superior officer. There is a difference between seeking a permission to raid and reduce the information into writing and the transmission of a copy of the same. Further, he has contended, that there has been failure of the compliance of under Section 52(a) of the NDPS Act. The inventory has to be drawn by the Officer Incharge of the Police Station. In the present matter, it was drawn by a Officer who is working with the LCB and not the Officer Incharge of the Purada Police Station. Further, a Magistrate cannot draw an inventory. He only can certify the correctness of the inventory so prepared. In support by relying on the judgments of the above, he has contended that the

application for inventory and the certificate about its correctness has to be as prescribed by the Rules of 2022 which is absent in the present matter. Thus, he has contended, that after the stems, leaves and seeds are separated, the seized articles can become a commercial quantity. Lastly, he has contended, that the applicant was not communicated the grounds of arrest by not giving sufficient information.

8] With assistance of the learned counsel for both the parties, I have perused the charge-sheet and other investigation papers.

9] First, let me appreciate, whether the seized article is the ganja or not. In the FIR as well as the inventory prepared by the informant, there is always mention that the seized cannabis plants were having leaves, flowers, buds and seeds. As per the application submitted for the inventory, a similar description is appearing. As per the certificate of the inventory drawn by the learned Judicial Magistrate First Class, Kurkheda under Section 52(a) of the NDPS Act, the following description is appearing;

“All the bags when opened before me one by one, they contain wet, dark greenish leaves with faint green cum yellowish nuts like coriander seeds attached to the stems and roots.’ It is a strong smell. As per say of the Investigating Officer, it is ganja alongwith attached stems and roots.”

10] In view of the above discussion, I find that definitely there were flowering of fruiting tops. The Magistrate to describe it has just drawn similarity with the coriander seeds. Hence, I find the description definitely satisfy the ingredients of the definition of the Ganja as per NDPS Act. However, the Magistrate did not separate the stems and other parts excluding flowering of fruiting tops to measure the quantity. Hence, the judgment in the matter of **Mohammad Isaruddin** (supra) may become helpful to the applicant. In that matter also, the seized

quantity was more than 600 kilograms. In the present matter, it is close to 240 kilograms. If the principle laid down in the matter (supra) is applied to the present matter, the facts in the present matter are more favoring to the applicant. In the matter (supra), the stems and other parts were not separated. Out of the total quantity of 600 kilograms, ultimate commercial quantity of more than 20 kilograms was doubted. In the present matter also, it is highly unlikely that the weight of flowering of fruiting tops including the seeds and roots may become more than 20 kilograms. Hence, there is doubt as to whether it can be treated as a commercial quantity or not.

11] There cannot be doubt, that as laid down in the matter of **Chandrabhan Janardhan Yadav** (supra), the application for the inventory was not as per the prescribed Form no.5 as per Rules 8 and 18(1) of the Rules of NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022. The application was addressed to the Incharge Police Station Officer. It has to be addressed to the Magistrate. However, I find that the inventory was definitely supplied to the Magistrate. The Magistrate in sufficient details certified the correctness of the inventory. In the matter (supra), there was no separate certificate by the Magistrate or any other person. Hence, the judgment in the matter of **Chandrabhan** (supra) is not helpful to the applicant.

12] The next issue about transmission of the information presided by reduced into the writing. In the present matter, neither the information was reduced into writing in any register nor its copy was transmitted. As per the judgment in the matter of **Raju Bhavlal Pawar** (supra), the information received has to be reduced into writing in the concerned register and its copy must be transmitted immediately to the superior officer. In the present matter, in the concerned register the information was not reduced into writing. But definitely a permission

was sought from the Superintendent of Police, Gadchiroli to conduct a raid. However, as per the judgment in the matter of **Kishan Chand** (supra) that cannot be treated as a sufficient compliance. At least such compliance becomes debatable.

13] On the above grounds, in my considered opinion, the applicant can be released on bail. Since his arrest dated 13.11.2025, the applicant is behind the bar. No doubt, in the present matter, the ground of arrest was communicated just in a single line. It was communicated that as the applicant was found in possession of a commercial quantity, he was arrested. Whether this information is/was sufficient or not, is also a debatable question. As per the judgment in the matter of **Mihir Rajesh Shah** (supra), the arrestee must be provided sufficient knowledge and facts constituting the grounds of his arrest.

14] Thus, I am inclined to allow the application. However, to rule out the apprehensions raised by Mr. Pradhan, that the applicant may commit a more serious offence and also abscond, some stringent conditions must be imposed on the applicant as per the operative order. Thus, I proceed to pass the following order.

ORDER

- 1] The application (Exh.6) is hereby allowed.
- 2] Applicant/accused **Krushna Harsingh Boga** shall be released on bail under Section 483 of the BNSS, in connection with Crime No.111/2025 (Spl. (NDPS) Case No.11/2026) registered with the Police Station, Purada for the offences punishable under Sections 8(c), 20(b), 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985, on furnishing the P.R. bond of Rs.1,00,000/- and surety of like amount.

- 3] The applicant shall not leave the revenue limits of District – Gadchiroli without a permission of the Court.
- 4] The applicant shall comply the conditions as provided by Section 480(5) of the BNSS.

(Dictated and pronounced in open Court.)

Gadchiroli
16th May 2026

(**A. L. Tikle**)
Sessions Judge, Gadchiroli