

MHGA010001692026



**IN THE COURT OF AD-HOC DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, GADCHIROLI**

(Presided over by Shri V. S. Khot)

Spl (NDPS) Case No.18/2026

State-Vs-Subrato Pares Das + 1

Subrato S/o Pares Das,

Aged 32 years, Occu. Cultivation,
R/o. Vivekanandpur, Tah. Mulchera,
District : Gadchiroli

.. **Applicant**

-versus-

State of Maharashtra

Through P.S.O. P.S. Regadi,

Tahsil : Chamorshi, Dist. Gadchiroli

.. **Non-applicant**

Order below bail application vide Exh.6

(Passed on : 9th April, 2026)

1] The accused/applicant has filed this application for grant of regular bail under Section 483 of the BNSS, 2023.

2] The applicant/accused contended that the Police Station Officer, Police Station, Regadi has registered the offence vide offence no.02/2026 for the offence punishable under Sections 20(b)(ii)(b) and 8(c) of the NDPS Act, 1985 and present applicant came to be arrested on 07.01.2026 and since then, he is in MCR. On 06.01.2026 Police Constable of Police Help Center, Regadi received a secret information regarding illegal transportation of ganja on a two wheeler vehicle from Vikaspalli to Regadi road. He informed the in-charge of Police Station

PSI Vishal Nallawar who arranged a trap and after recording the information in station diary proceeded towards spot with his police staff and panchas. After some time motorcycle from Vikaspalli side came and police stopped the said motorcycle and enquired with the persons sitting on the two wheeler. The personal search in presence of panch witnesses was taken. The police found red and black colour bag in possession of pillion rider. It was smelling like ganja. There was greenish substance in the said bag. Upon interrogation they disclosed their name as Subroto Das and Chandrashekhar Dhali. The police thereafter obtained the permission from SDPO, Gadchiroli. The photographer and certified weighing scale were called at the spot. The substance was found to be of 1494 gms. weight. The story depicted in the police papers is false and having no truth bearing.

3] The present applicant has been falsely implicated in the crime. He is wholly innocent. The applicant had no personal knowledge about the contraband substance. The applicant was traveling on his motorcycle from Vikaspalli to Regadi and during journey accused no.2 namely Chandrashekhar Dhali requested him to give a lift. Considering the acquaintance between them the applicant allowed the accused no.2 to seat on the motorcycle. The applicant was not knowing the contents of bag. He was having no conscious possession.

4] The arrest of the applicant is illegal. The grounds of arrest were not communicated to him at the time of his apprehension. He was not taken before the gazetted officer and opportunity was not given under Section 50(1) of the Narcotics Drugs and Psychotropic Substance Act, 1985. There is a clear violation of Section 50(1) of the Narcotics Drugs and Psychotropic Substance Act, 1985.

5] The mandatory requirements of Section 42 of the NDPS Act regarding search and seizure were not complied with. The trap was laid on the basis of prior information. The information regarding trap was not given to senior police officer. There is a clear discrepancy in the weight of the contraband recorded by different authorities. Such variation causes serious doubt.

6] The contraband was not deposited in the malkhana of the police station immediately. On the same day after seizure. The chain of the custody is not established by the prosecution. There is an inordinate and unexplained delay of 29 days in sending the samples to the CA. Such delay is fatal to the prosecution case and brings the serious doubt about integrity and sanctity of the action taken. The prosecution has failed to comply with the mandatory provisions of the NDPS Act.

7] In this case the charge-sheet is filed. The material witnesses are public servant. There is no chance of tampering with the evidence. No purpose would be served by keeping the applicant behind the bars. The present applicant is not a criminal antecedents. He is a permanent resident of the locality. There is no likelihood of his absconding. The applicant is ready to furnish bail and abide the conditions enforced by the Court. The applicant due to above mentioned lacunas and irregularities is entitled to be enlarged on bail. The applicant/accused be enlarged on bail.

8] The say of the prosecution side came to be invited. The prosecution filed the say. The prosecutor contended that the application is strongly opposed and accused was caught raid handed with narcotics. There is a prima facie case standing against the accused. The bail application cannot be allowed and if it is allowed, then there would be tampering of prosecution evidence. The bail application is having no

substance and it is liable to be rejected. The prosecutor prayed for rejection of the bail application.

9] In view of the rival contentions of the parties, following points for my determination and I have recorded my findings subject to the reasons mentioned hereinafter.

No.	<u>Points</u>	<u>Findings</u>
1.	Whether the applicant is entitled to be enlarged on bail under Section 483 of the BNSS ?	..Yes...
3.	What order ?	As per final order.

REASONS

10] The applicant has filed this bail application and contended that the prosecution/police has committed various irregularities/lacunas. The accused is entitled to be enlarged on bail. He is ready to furnish bail and observe the conditions. He is having no past criminal record. He is having no idea that accused no.2 was carrying the contraband. The applicant/accused no.1 is praying for bail. On the contrary the prosecutor has submitted that there is a chance of tampering with the evidence if the applicant is released on bail. The applicant/accused no.1 was caught raid handed. In such circumstances the bail application is liable to be rejected.

11] Applicant no.1 has filed this bail application in Crime No.02/2026 registered at Regadi Police Station, Tah. Chamorshi, Dist. Gadchiroli. The applicant no.1 has no pending criminal cases against him. His criminal background is clean and clear. This fact goes in favour of applicant.

12] The material on record shows that the police has seized

1,494 gms. of ganja from applicant and another accused. The material/contraband seized is not of commercial quantity, therefore, the rigors of Section 37 are inapplicable to the case in hand. It is apparent that the flowering tops were not separated and weight was not taken after separating the flowering tops. The ganja includes flowering tops only. But the photographs make it clear that without flowering top being separated the police took the weight and calculated it at the tune of 1,494 gms. ganja. If the flowering tops would have been separated, then the quantity would be of small where the bail can be claimed as right though it is not strictly a right. It appears that the ganja seized was of a small quantity in fact as weight was not taken separately as regards to the flowering tops. This fact goes in favour of the applicant.

13] It is also seen that the information of arrest was given to the relatives, but grounds of arrest were not communicated to the relatives. It violates the mandate of Vihankumar citation. This fact also goes in favour of the applicant.

14] The perusal of the case papers show that the Judicial Magistrate, First Class, Chamorshi has prepared the inventory. The learned Judicial Magistrate, First Class, Chamorshi found the weight of contraband was 1570 gms., whereas the weight of contraband calculated by police was 1,494 gms. There is a remarkable difference between the weight calculated by Judicial Magistrate, First Class, Chamorshi and police. This difference create suspicion and the benefit of suspicion goes to the applicant. This fact goes in favour of applicant's bail application. The learned counsel for applicant contended that it is possible that the police added some material to the seized one and, therefore, weight of contraband became 1570 gms. The argument of learned counsel runs without any material, but there is some suspicion

as regards to weight and benefit would go to the applicant.

15] In this case the charge-sheet is filed. No investigation is now required to be carried out. The further incarceration of the applicant is necessary. In such circumstances there is no hurdle in granting bail to the applicant.

16] It is apparent that the applicant and another person was searched by the police on 06.01.2026 at about 5.30 p.m. to 8.30 p.m. The spot panchanama if perused, shows that prior to taking search of applicant the police has not given their search before the panchas. This fact brings doubt in the seizure. It was for the police to give search of themselves prior to the search of applicant. This fact goes against the prosecution case. This aspect support the bail plea of applicant.

17] In this case the criminal record of applicant is clean and clear. The applicant is not a habitual offender. The contraband seized was not of a commercial quantity. If the flowering tops would have been separately weighted, then the contraband possessed by the applicant would be of small quantity. The bail can be claimed in case of a small quantity as rigors of Section 37 would not come to play. There are also other lacunas. The learned counsel during course of arguments relied the citation of **Vishwajeet Mandal-Vs-Narcotic Control Bureau, Kochi** decided by Hon'ble Kerala High Court, **Wajid Ali-Vs-State of Rajasthan**, decided by Hon'ble Supreme Court of India and **Mohammad Zakir Vs-State of Maharashtra** decided by Hon'ble Bombay High Court. The above case laws are not helpful to the applicant. It is partly applicable to his case. In view of circumstances of the case I am of the view that the applicant no.1 be enlarged on bail subject to the conditions. Therefore, I am inclined to pass following order.

ORDER

1. The application for bail is hereby allowed.
2. The accused stands enlarged on bail of Rs.50,000/- with one surety in like amount in Crime No.02/2026 registered under Sections 20(b)(ii)(b) and 8(c) of the NDPS Act, 1985.
3. The accused shall not abscond and shall not leave the State of Maharashtra without permission of the Court.
4. The applicant shall attend the dates of trial without fail.
5. The applicant shall not impose any burden upon the witnesses in any manner.
6. The accused shall not commit any other offence while on bail.
7. The bail application stands disposed of.
8. It be annexed to the charge-sheet.

Sd/-

Gadchiroli
9th April, 2026(Vishwas S. Khot)
Ad-Hoc District Judge-1 &
Additional Sessions Judge,
Gadchiroli