

MHGA010001702026



**IN THE COURT OF ADDITIONAL SESSIONS JUDGE AT
GADCHIROLI**

(Presided over by Shri P. V. Chatur)

Spl (NDPS) Case No.19/2026

State -vs - Savji

Savji s/o Suku Hidko

Age: 66 yrs, Occupation : Agriculturist

R/o Malewada, Tah- Kurkheda

Dist- Gadchiroli

.... **Applicant**

...Versus...

1] State of Maharashtra

Through Police Station Officer,

P S. Purada, Tah-Kurkheda

Dist- Gadchiroli

.... **Non-applicant**

.....

Order Below Exh.04

(Passed on : 29th May, 2026)

1] The accused, Savji Suku Hidko, sought regular bail.

Allegations in the FIR (in brief):

2] The prosecution case is that the accused is an agriculturist residing at Malewada, Tahsil Kurkheda, District Gadchiroli. Information was received that he was illegally cultivating and farming narcotic plants (marijuana) for the purpose of sale. Therefore, on the order of the SDO, Kurkheda, police staff along with two government panchas,

photographers, a weight measurer, forensic officials, and an expeditious team were dispatched to investigate the accused's farm.

3] The accused was informed of the reason and purpose of the visit and was requested to cooperate in the investigation of his farm. A written notice under Section 50 of the NDPS Act, 1985 was served on the accused. Since he could not read the contents printed in the notice, the investigation team read and explained it in the presence of the panchas. The accused was informed of his right to search all members of the raiding party and was asked to cooperate in the search, but he refused.

4] Subsequently, the raiding party inspected the farm in the presence of the pancha witnesses and gazetted officers. They found chillies planted in one plot, and in some places, cannabis plants with green leaves, fruiting tops, and seeds growing. With the assistance of police officers, 46 samples and large marijuana plants along with their roots were uprooted from the chilli plantation on the accused's farm. Upon inquiry about the marijuana plants, the accused admitted to having planted them himself. Thereafter, Mr. Subhash operated the electric weighing scale he had brought. Upon inquiry, the weigh measurer confirmed the net weight as 4.600 kg of narcotic (ganja/marijuana), illegally collected, valued at Rs. 2,30,000/-. It was established that the narcotic (marijuana) was cultivated at a specific location within the chilli farm illegally. Based on this report, the offence was registered at Police Station Purada, PHC Malewada, Gadchiroli for offences under Sections 8(c), 20(b), 22(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Contentions and grounds for bail urged by the accused:

5] The applicant/accused is a law-abiding citizen and permanent resident of the address mentioned in the application. There is no compliance with Section 42 of the NDPS Act, which mandates that after receiving secret information, the respondent must record the reason for the search and grounds for belief in writing. The notice under Section 50

of the NDPS Act does not bear the signatures of the panch witnesses in whose presence it was given. The said notice also does not endorse that the accused refused to be searched in the presence of the gazetted officer. Therefore, there is no compliance with Section 50 of the NDPS Act.

6] The certificate of inventory under Section 52-A of the NDPS Act dated 9.1.2026 notes that the alleged seized cannabis consisted only of wet leaves which are dark greenish, and the seeds are brown to black in colour, not accompanied by flowering and fruiting tops. The gunny bag, earlier seized from the applicant and produced before the Learned JMFC, was opened and found to contain only wet leaves with dark greenish color and seeds of brown-black color. As per the definition of "Ganja" prescribed in the NDPS Act, leaves and seeds are excluded from the definition of Ganja when not accompanied by flowering and fruiting tops.

7] There is no compliance with Sections 47 and 48 of the BNSS, which mandate communicating the grounds of arrest in full particulars to the accused and his relatives. Therefore, the accused is entitled to bail.

8] The applicant/accused is a poor person and the sole earning member of his family. If he is not released on bail, his family will suffer starvation. He has no criminal antecedents and is a permanent resident of the address mentioned in the application. There is no chance of tampering with prosecution evidence. The investigation is complete. Therefore, no purpose will be served by keeping him behind bars. Hence, bail is prayed for.

Reply of the Investigating Officer (Exh-7):

9] The Learned APP opposed the application in reply Exh-7, contending that at the time of the raid, the applicant was present on the spot. During the search, he was found to have planted ganja plants in the chilli plantation. The ganja plants were cut and collected in a plastic bag before the panch witnesses, and the quantity was 4.600 kg.

10] The due procedure of law was followed in the preparation of the spot panchanama, other documents, and recording statements of witnesses. The charge-sheet has been filed. It reveals that prima facie the accused has committed a serious offence. The C.A. report is filed on record. He may tamper with or pressure the witnesses. Therefore, he is not entitled to bail. The I.O. prays for rejection of the bail application.

11] I have heard the I.O. and the Learned APP for the State and the Learned Advocate for the accused/applicant.

12] From the contentions of the parties and material on record, the following points arise for determination, to which I record my findings for the reasons mentioned thereunder:

Sr.No	Points	Findings
1	Whether the applicant/accused is entitled to bail?	Yes
2	What order?	As per final order

REASONING

13] The Learned Advocate for the applicant/accused pressed heavily on the nature of the seized muddemal property, i.e., the plants of the alleged narcotic (marijuana). The seizure panchanama mentions that 46 samples and large marijuana plants were uprooted with their roots. They were placed in a white plastic bag and weighed on an electric scale. The weight of the seized plants was found to be 4.600 kg. The description of the seized muddemal property is narcotic substance (marijuana) with greenish wet leaves, flower tops, and seeds, net weight 4.600 kg, priced at Rs. 50,000/- per kg.

14] The Learned Advocate drew attention to the certificate of inventory, which mentions that the sealed gunny bag was opened before me and contained wet leaves which were dark greenish and seeds of brown to black color. Thus, as argued by the Learned Advocate, there is a

discrepancy between the description of the seized plants in the seizure panchanama and the certificate of inventory under Section 52-A of the NDPS Act, 1985. The magistrate did not find flowering and fruiting tops, and therefore these were neither separated nor mentioned in the certificate of inventory. As held in the case of *Mohammad Isaruddin vs. State of Maharashtra*, AIR online 2023 Bom 1442, although the entire quantity including wet leaves and seeds was measured at 4.600 kg, this does not represent the weight of flowering/fruiting tops including seeds and roots. Therefore, as submitted by the Learned Advocate, it will be decided during the trial whether the quantity is commercial or not.

15] The accused was served with the notice under Section 50 of the NDPS Act. However, as argued by the Learned Advocate, the notice does not bear the signature of the panch witness in whose presence it was served. Moreover, the accused ought to have been given some opportunity or time to exercise his right of search in the presence of an executive magistrate. There is no case from the prosecution that an executive magistrate was made available before whom the accused could have exercised his right of search.

16] The Learned Advocate vehemently argued that there is no compliance with Section 47 of the BNSS, which mandates informing the accused of the grounds of arrest. The I.O. submitted an acknowledgment of correspondence titled "grounds of arrest/surrender of the accused" under Section 47 of BNSS. In this correspondence, at serial no. 4, the grounds of arrest are mentioned as "since the quantity of narcotic substance (marijuana) involved in the said crime is moderate." Moreover, the correspondence addressed to the accused titled "notice to the accused" mentions that the I.O., Shri Abhijit Payaghan - PSI, is going to arrest the accused in this offence. This offence is cognizable, and notice of his arrest was given to his son Jitendra as per Section 48 of BNSS. The Hon'ble Supreme Court of India, in the case of *Mihir Rajesh Shah vs. State of*

Maharashtra and another, 2025 INSC 1288 : MANU/SC/1492/2025, held that the arrest of any person/officer must provide sufficient knowledge and facts constituting the grounds of arrest of the arrestee. However, the correspondence at page no. 71 does not describe such details.

17] Thus, in view of the above discussion and considering the grounds and lapses on the part of the investigation agency, such grounds are sufficient for the grant of bail to the accused.

18] The accused is a permanent resident of the address given in the application/charge-sheet. He owns immovable property. Therefore, there seems no possibility of absconding. The prosecution witnesses are government officials, so there is no possibility of tampering with prosecution evidence. The applicant/accused is ready to attend the court regularly. The investigation is complete, and in view of the allegations, the trial can proceed on framing of charges. Therefore, this is a fit case for grant of bail. Hence, the following order is passed:

ORDER

1. The Bail Application vide Exh. 04 is allowed.
2. The accused/applicant stands enlarged on bail of Rs. 50,000/- with one surety in like amount in Crime No. 002/2026 registered u/s 8(c),20(b),22(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substance Act, 1985 of P .S.O, P. S. Purada, Tah-Kurkheda, District-Gadchiroli.
3. The accused/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 evidence.
4. The accused/applicant shall provide his residential address and cell number to the concerned Police Station and shall not change his place of residence without prior intimation to the

Investigating Agency.

5. The accused/applicant shall attend every date of the trial regularly. If he fails to attend the trial for two consecutive dates, or fails to comply with the aforesaid conditions, the State may move for cancellation of bail.

6. The accused/applicant shall attend the Local Police Station every week on Sunday between 10:00 a.m. and 2:00 p.m.

7. Copy of this bail order be sent to concerned Jail Superintendent and District Legal Services Authority (D.L.S.A.), Gadchiroli on their authorized E-mail I.D. forthwith.

8. The bail application is hereby disposed of.

(Dictated and declared in open Court.)

Date : 28.05.2026

(**Pravin V. Chatur**)
District Judge-2 &
Additional Sessions Judge,
Gadchiroli

Dictated, typed, checked and signed on 29.5.2026.