



**IN THE COURT OF SPECIAL JUDGE, GONDIA.**  
**SPL. CASE No.55/2025.**  
**(CNR NO.MHGO010005852025)**

**State of Mah. – vs – Sudip Paik and other**

**ORDER BELOW EXH. 31**  
(Passed on this 15<sup>th</sup> day of May, 2026)

The Application is filed by applicants **Sudip s/o Anama Paik** and **Sudip Maithu Lima** for their release on bail under section 483 of BNSS in Crime No.189/2024 registered with Railway police station Gondia for offence punishable under sections 8 (c), 20 (b) ii (c) and 29 of NDPS Act.

2. Brief facts of the case are as under:

It is contention of prosecution that in view of Assembly Election of Maharashtra State on 15-11-2024 RPF Nagpur and other team of the task force were keeping watch in relation to illegal activities. During the same they found that one person in A-2 coach of Puri Ahmadabad Express bearing Train No.12843 was sitting on berth No.5 in suspicious condition. On inquiry said person disclosed his name as **Sudip Anama Paik** r/o Anandpur, Mohana District

Gajapati. During inquiry he was giving evasive answers and also disclosed about applicant No.2 namely Sudip Maithu Lima r/o Sundardong police station Udaygiri, District Gajapati. Applicant No.1 called applicant No.2 in A-2 coach of said train. Accordingly, applicant No.2 alongwith two bags came into said coach. Applicants were de-boarded alongwith those six bags at Bhandara road railway station. They disclosed that those bags belong to them. Intimation was given to RPF police station Bhandara road and dog squad was called. Accordingly those bags were checked with the assistance of dog and it revealed that same contained contraband Ganja. Thereafter, letter was issued to police station Mohadi for further proceedings under section 42 of NDPS Act. In presence of Gazette Officer, applicants and panch witnesses, packets found in four bags which were in custody of applicant No.1 were weighed. Those bags were wrapped by brown colour sticky tape. Thus, total 13 packets were found from four bags in custody of applicant No.1 and total weight of those packets was 29.870 kg while in the ARISTOCRAT Carry Bag found with applicant No.2 containing total 8 packets weighing 18.48 kg. Those packets were wrapped by brown colour sticky tape and those were seized by PSI Amit Pawar in presence of panchas and Gazette Officer. Thereafter, offence was registered in above referred sections

with Railway Police Station, Gondia vide Crime No.189/2024. Inventory was prepared by the learned Judicial Magistrate and sample was drawn. After custodial interrogation and complete investigation charge-sheet came to be filed against applicants for the offence referred above.

3. Applicants submit that there is no independent witness, documentary evidence or any other material linking applicants to the alleged contraband. They submit that at the time of alleged recovery of Ganja from AC berth of the train there were several other passengers present in the same coach. Investigating Authorities have failed to record the statements of those persons. It creates serious doubt about the exclusive possession of substance by the applicants. Investigation has not been conducted with proper diligence. There is prima-facie case of procedural lapse. Applicants have been falsely arrested. Nothing in custody of present applicants was found. There is no involvement of applicants in said crime. They are innocent and falsely implicated in the present crime. There is discrepancy in the weight of the alleged contraband as recorded in the inventory panchnama and seizure panchnama. Panchnamas were not properly drawn and they were not properly sealed and signed as per law. Therefore, drawing of second panchnama is under shadow of

doubt. Moreso seizure is doubtful. As per police report panchnama was drawn on 15-11-2024 but it was neither signed nor bear signature of the Gazette Officer and there was no description of the seized articles. There is no document on record to show that panchnama was corrected pursuant to SDNo.5/24 of RPF, Gondia. Prosecution ought to have drawn panchnama again. It is contended that on 15-11-2024 it is claimed that applicants put signature on panchnama without their arrest and custody. Prosecution claimed that they were arrested on 16-11-2024 and then produced before the court. If they were not arrested on 15-11-2024 then how they signed on document of prosecution. So their custody is illegal. In these circumstances prayed for release of applicants on bail.

4. Ld. DGP filed say vide Exh.36 and opposed the application on the ground that accused were found in possession of 46.350 kg in train. After inquiry accused were arrested by investigating agency and there is no any illegal detention. Offence is serious one. There is ample evidence against applicants. They are resident of other State. In case of release of applicants on bail there is possibility that they will not make themselves available for trial. So also there is possibility of repetition of offence. Therefore, requested to reject bail application.

5. Railway police Gondia through PSI Chandrashekhar Bhojar filed say vide Exh.47 and resisted the application on the ground that in case of release of applicants on bail they will not attend court regularly and they will commit offence of like nature and they will induce witnesses so as to dissuade them from giving evidence. Accordingly, requested to reject bail application.

6. RPF Bhandara filed say vide Exh.39 and submits that during duty police personnel of RPF, PSI Amit Prakash Pawar and his team found one person sitting in suspicious condition on berth No.5 of A-2 coach in Puri Ahmadabad Express No.12483. On inquiry applicant No.1 disclosed his name and place of residence. After detail inquiry applicant No.1 called applicant No.2 in the said coach. Out of six bags suspicious articles were found in five bags. So they were de-boarded from said train at Bhandara road railway station and applicants on inquiry disclosed that suspicious articles contained in five bags belong to them. It was ascertained through dog squad that it is Ganja. So in presence of Gazetted Officer and Panchas proceeding of seizure was conducted since 18.00 hours to 19.50 hours and after conducting said proceeding entry was made for departure at 23.30 hours for handing over suspicious accused persons and documents to

railway police Gondia and railway police Gondia verified documents and found some irregularities so same were returned for correction and after those irregularities were removed those documents were handed over to railway police Gondia and thereafter railway police Gondia registered offence vide crime No.189/2024 under sections 8 (c), 20 (b)ii (c) and 29 of NDPS Act on 16-11-2024. Accordingly submitted their report.

7. Perused application, say on it and record and proceeding of present case. Heard learned advocate for applicants and learned DGP at length. Certainly clarification was also sought in that regard and also further hearing was made.

8. Learned advocate for applicants placed reliance upon authority in the case of *Tofan Singh vs The State Of Tamil Nadu (2021) 4 SCC 1* wherein Hon'ble Apex Court laid down that confessional statements under section 67 of NDPS Act are not admissible in evidence. It is seen that said confessional statements recorded under section 67 of NDPS Act are clearly hit by provisions of section 25 of the Indian Evidence Act. There is no dispute about ratio laid down in the said authority. It seems that police has considered accused No.2 as associate of accused No.1 only on the basis of

disclosure at the time of inquiry with him although both the accused were not travelling in the same coach in the said train. That being so prima-facie recovery of alleged contraband from accused No.1 for the purpose of consideration of bail application cannot be clubbed with that of recovery of alleged contraband from accused No.2. Prima-facie it is clear that accused No.2 was found with ARISTOCRAT trolley containing 8 sealed packets allegedly containing contraband article Ganja total weighing 16.480 kg. Certainly, that quantity is intermediate quantity. That being so rigor of section 37 is not applicable to the accused No.2 Sudip Maithu Lima. It is to be noted that this accused has been formally arrested as per the prosecution on 16-11-2024. Completion of trial would take its own time. Charge-sheet is already filed. Investigation is over. So his further incarceration is not required in the facts of matter. Therefore, I am inclined to consider his request for grant of bail.

9. So far accused No.1 is concern, he by way of pursis raised certain additional grounds for consideration of his request for bail. In my view applicant/accused No.1 ought to have raised those grounds in bail application. Further accused No.1 has not mentioned with precision about alleged ground of breach of constitutional mandate. There is some

confusion as accused No.1 stated that they were not arrested on 15-11-2024, so their custody is illegal. Applicant/accused No.1 is at liberty to raise specifically ground in that respect by way of fresh bail application. An oral submission in that respect can be considered only on foundation being laid in the application. As I have granted liberty to applicant/accused No.1 to file fresh bail application and his application on merits is not considered so case laws cited by learned advocate for applicants are not discussed. Hence, this order.

### **ORDER**

- 1] Application [Exh.31] is partly allowed.
- 2] The **applicant/accused No.2 Sudip Maithu Lima** be released on bail in Crime No.189/2024, u/s 8 (c), 20(b)(ii)(c) and section 29 of NDPS Act, 1985 registered with Railway police station Gondia on his executing P.R. bond of Rs.25,000/- with one surety in like amount on the following conditions;
  - [i] Applicant/accused No.2 shall not tamper prosecution evidence.
  - [ii] Applicant/accused No.2 shall attend concerned court regularly.
  - [iii] Applicant/accused No.2 shall not directly or indirectly make any inducement, threat or promise to

any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or tamper with the evidence.

[iv] Applicant/accused No.2 shall not indulge himself in similar type of activities.

[v] Upon release Applicant/accused No.2 shall furnish address of his place of abode with its proof.

- 3] Accused No.1 is at liberty to file fresh bail application in view of observations made above.
- 4] Accordingly application stands disposed of.

Gondia.  
Dated: 15-05-2026.

(M. T. Asim)  
Special Judge, **Gondia**.