



In The Court of Judge Special Court NDPS Act, Nagpur.

Presided over by
Shri M. S. Ganorkar.

Special Case No.483 of 2024.

CNR No: MHNG010079992024.

Crime No.92 of 2024, P. S. Railway Police Force,
Gondiya.

State of Maharashtra.
(Through P.S.RPF, Gondiya.)

V/s
Rahul Kalbande and Ors.

Applicant - Arsan Khan S/o Israr Khan.

Order below Exh. 29
(Date: 2nd September 2025.)

1. This is an application for issuance of directions as applicant/accused be released on bail, U/Section 483 of the Bhartiya Nagarik Suraksha Sanhita. Applicant/accused booked in Crime No.92 of 2024, for the offences punishable U/Sections 8(c), 20(b)(ii)(c) and 29 of the NDPS Act.
2. Perused the application along with documents annexed here with and say/report of Investigating Officer/APP. Heard both the sides at length.
3. In the light of this facts emerged, submissions by the parties and material on the record, the following points arise for determination before this Court. The said points and the findings thereon which

follow the reasons as:

Point For Determination.

Sr. No.	Point	Finding
1.	Whether the applicant made out the case as to issuance of direction as to be released on bail, in the given set of facts?	...No.
2.	What order?	...Application Rejected as per final order.

REASONS

As to the point no.1:

4. The applicant filed application for grant of bail in the present crime registered under Section 8(c), 20(b)(ii)(c) and 29 of the NDPS Act. As per applicant filed this application against the high handed actions of RPF, Nagpur in connection with crime No.92 of 2024 for the offences. It is alleged that RPF officer, Gondia were on duty on 29/04/2024 at about 1.35 Sambalpur to Pune Special Train No.08327 was supposed to arrive at Gondia Railway Station and the said officer had on routine round in moving train between Durg and Gondiya at that time they came across some passengers occupying seat No.17 to 21 in Coach No.B3 and their movements were suspicious, therefore, the police staff tried to interrogate them, they gave evasive answers, therefore, their luggage found beneath the berth were searched found that smell was emanating from the said bags. After search, the police seized the said Ganja, arrested the accused and thereafter registered the offence under the NDPS Act.
5. The applicant submitted that accused No.1 Rahul and No.5 Surbhi Soni were for a journey from Titlagad to Nagpur on two tickets. The said tickets were seized by the police for the purpose of investigation.

In the search the accused found Ganja weighing 40 Kg. During course of investigation at the time of inventory contraband Ganja weighing 7.810 Kgs found and other material was collected. The earlier bail application was rejected by Hon'ble High Court. The applicant is in custody since 29/04/2024 and charge-sheet is filed. Investigation is completed and no purpose would be served by keeping the applicant for indefinite period. The contraband seized from the applicant is an intermediate quantity. The applicant is falsely implicated in this crime. The applicant was travelling in train and was not aware about incriminating articles. Hence, the applicant prayed for grant of bail.

6. The Investigating officer and Learned APP opposed the application stating that the charge-sheet appears that on 29/04/2024 at about 13.35 hours between Rly Station Amgaon Gondiya in Train No.08327 Sampalpur Pune Express the RPF apprehended the all accused who are travelling in Coach No.B-13 on seat No.17 to 21 and seized the bags which were possessed by accused persons. Accused No.1 and 2 were travelling one ticket PNR No.6863855423 and possessed one bag containing 8.177 kg Ganja. The present accused and accused No.3 and 5 were travelling on ticket PNR No.6335129361 and possessed all total 25.024 kg Ganja. The concerned officer prepared spot cum seizure panchnama, taking photographs, the inventory done and C. A. report filed on record shows that it was Ganja. The quantity of contraband seized from the accused No.3 to 5 are commercial quantity, therefore, rigor of Section 37 of the NDPS Act is applicable. Hence, prayed for rejection of the application.
7. Learned Counsel for the accused submitted that charge-sheet is filed. Three accused persons have already been released on bail. The applicant belongs to respectable family. If the applicants released on

bail, he is ready to abide by all the conditions and no possibility of applicants absconding. He submitted that accused was sitting in train and bags were kept below berth. Hence, accused cannot be said to have possession of the same. He prayed for grant of bail.

8. Learned APP submitted that facts of co-accused and applicant are different. The applicant was found in possession of Ganja and travelling in train. The present accused and accused No.3 and 5 were travelling on ticket PNR No.6335129361 and possessed all total 25.024 kg Ganja. The concerned officer prepared spot cum seizure panchnama, taking photographs, the inventory done and C. A. report filed on record shows that it was Ganja. The quantity of contraband seized from the accused No.3 to 5 are commercial quantity, therefore, rigor of Section 37 of the NDPS Act is applicable. Hence, prayed for rejection of the application.
9. Learned Counsel for the applicant relying upon the authority in case of *Amarsingh Ramjibhai Barot..vs..State of Gujrat, 2005 ALLMR (Cri) 229 SC*. He further relined upon the authority in case of *Sheikh Javed Iqbal alias Ashfaq Ansari alias Javed Ansari....vs...state of Uttar Pradesh, AIR 2024 SC 3579*. He further relined upon the authority in case of *Union of India and others..vs...Prohlad Guha, AIR 2024 SCC 3588*.
10. I perused case papers. Evidence of complainant is yet to be recorded and summons were issued to other witnesses. The co-accused released on bail is not found in actual possession of Ganja. Police seized CCTV footage of the railway station where accused was seen carrying two bags which were seized from the train. Bags were found below their berth. So quantity of Ganja seized is more than 25 kg which is above the commercial quantity. The accused was found in

actual possession of Bags containing Ganja then in such circumstances he cannot claim parity with other accused who are released on bail. Hence, in such circumstances, the application deserves to be rejected. Consequently, I proceed to pass following order.

ORDER

1. Application (Exh.29) is hereby rejected.

Dictated and pronounced in open Court.

Date : 2nd September 2025.

(Manish S. Ganorkar)
Judge Special Court NDPS Act,
Nagpur.