



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, Gondiya.

State of Maharashtra.
(Through P.S.Railway Police Gondiya.)

V/s

Rahul Kalbande and ors.

Applicant - 1] Tousheeb Khan Taheer Khan.

2] Arsan Khan S/o Israr Khan.

Order below Exh.43

(Date: 4th March 2026)

1. This is an application for issuance of directions as applicants/accused be released on bail, U/Section 483 of the Bhartiya Nagarik Suraksha Sanhita. Applicants/accused booked in Crime No.92 of 2025, 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 applicants/accused made out the case as to issuance of direction as to be released on bail, in the given set of facts?	...Yes.
2.	What order?	...Application Allowed as per final order.

REASONS

As to the point no.1:

4. The applicants submitted that they are peace loving and law abiding person. They have been falsely implicated in this crime and they were arrested on 29/04/2024 since then they are in jail. It is alleged that on 29/04/2024 the RPF, Gondia were on duty and at about 1.35 pm Sambalpur to Pune Special Train No.08327 was supposed to arrived at Gondia and at that time they came across some passengers occupying seat Nos.17 to 21 in Coach No.B3 and their movements were suspicious, therefore, the police staff tried to interrogate them, they gave evasive answers and therefore, luggage found beneath the said berths were searched and it was found that foul smell was emanating from the said bags. So, the police asked to get down Gondia Railway Station and after search found total Ganja weighing 33.201 Kgs from the accused persons seized by the police in presence of panch, prepared seizure panchnama, arrested the accused and registered the offence under NDPS Act.

5. The applicants submitted that they have been falsely implicated in this crime. Charge-sheet is filed and the contraband found from the possession of applicant accused No.3 Ganja weighing 4.128 Kgs and 3.065 Kg and from the possession of applicant accused No.4 the contraband Ganja 5.146 kgs and 3.187 kgs seized by the police which is the below commercial quantity. The applicant is in jail since 29/04/2024. The contraband already been seized, therefore, their custodial interrogation is not necessary. If the applicants released on bail, they are ready to abide by all conditions as imposed by the Court and they will not tamper with the evidence and witnesses. Hence, they prayed for grant of bail.
6. The Investigating officer submitted that from the possession of accused persons 33.201 Kg Ganja and mobile seized. The offence is serious and it is commercial quantity. It is also contended that the offence is serious in nature, therefore, the present applicants accused were arrested. If released on bail they will tamper with the evidence and witnesses. Hence, prayed that application be rejected.
7. Learned Counsel for the applicant that the alleged quantity seized from the possession of applicant accused No.3 Ganja weighing 7.810 kg and from applicant accused No.4 Ganja weighing 10.830 Kg is the below commercial quantity, therefore, rigor of Section 37 of the NDPS Act is not applicable. Now the charge-sheet is filed and the substantial investigation is completed, therefore, their custodial interrogation is not necessary. If the applicants released on bail they are ready to abide by all conditions and will not tamper with the evidence and witnesses. Hence, prayed that application be allowed.
8. Learned Counsel for the applicant relied upon the authority in case of *Sangeeta Y. Gaikwad...vs...State of Maharashtra, 2006 ALL MR*

(Cri) 2405. He further relied upon the authority in case of *Ruksana w/o Ejajuddin Kazi...vs...State of Maharashtra, Criminal Application (BA) No.498 of 2011*. He further relied upon the authority in case of *Muthu Kumar...vs...Station House officer, 2008(4) Crimes 722 (Ker.)*. He further relied upon the authority in case of *Dheeraj Kumar Shukla....vs...State of Uttar Pradesh, Special Leave to Appeal (Cri.) No(s) 6690/2022, Supreme Court of India*.

9. Learned APP opposed by the application on the ground that the offence is serious and the charge-sheet is filed. The contraband seized from the accused is commercial quantity. Rigor of Section 37 of the NDPS Act is applicable. If the applicants are released on bail they will tamper with the evidence and witnesses. He prayed that the application deserves to be rejected.
10. On going through the say of I. O., Spot panchanama and charge-sheet it appears that the contraband seized from the possession of applicant accused No.3 Ganja weighing 4.128 Kgs and 3.065 Kg and from the possession of applicant accused No.4 the contraband Ganja 5.146 kgs and 3.187 kgs individually is the below commercial quantity. Therefore, rigor of Section 37 of the NDPS Act is not applicable. In the said crime accused persons were found together with contraband Ganja is the commercial quantity but individually below the commercial quantity, hence, Section 29 of the NSPS Act is not attracted. Applicants are in custody since last 1 Years, 11 months and 8 days. No purpose would be served by keeping the accused in custody for indefinite period. The charge-sheet is filed in this crime and it will take time to commence the trial, therefore, their further detention in custody is not necessary. The applicant are ready to abide by all conditions, therefore, on imposing suitable conditions

applicants are entitled for bail. Consequently, proceed to pass following order.

ORDER

1. Application (Exh.43) is allowed.
2. Applicant/accused ***No.1 Tousheeb Khan Taheer Khan and No.2 Arsan Khan S/o Israr Khan***, be released on bail, on executing Personal Recognition for bond of Rs.1,00,000/- (Rupees One Lakh only) with solvent surety in the like amount and cash security amount of Rs.5000/- (Rupees Five Thousand), each, in Crime Register No.92 of 2024 of Railway Police Station Gondia *Police Station*, for the offence punishable U/Section 8(c), 20(b)(ii)(c) and 29 of the NDPS Act, subject to following conditions :-

1. *The applicants shall not tamper with the evidence and the witnesses, in any manner. Further, the applicants are directed 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 them from disclosing such facts to the Court or to any police officer.*
2. *The applicants shall not leave the Nagpur District without intimation to the Investigation officer.*
3. *The applicants shall not commit the similar offence of which they are charged.*
4. *Applicants are further directed as to submit complete address proof, mobile phone of their own and as well as two those persons who are related to them.*
5. *Applicants/accused shall remain present on each date of proceeding or as and when called.*

Dictated and pronounced in open Court.

Date : 4th March 2026.

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