

MHRG010009822025



Spl. (NDPS) Case No. 42/2025

State of Maharashtra
through PSO Murud Police Station
V/s.
Alwan N. Dafedar & Ors.

:: ORDER BELOW EXH. 26, 52, 53 ::
[Passed on 09.10.2025]

1. These bail applications are filed by applicants/accused no. 4 Anas Imtiyaj Kabale @ Mohammad Anas Imtiyaz Kabale, accused no.10 Anuj Vinod Jaiswal and accused no. 9 Vishal Ramkishan Jaiswal, u/sec. 483 of Bharatiya Nagari Suraksha Sanhita, 2023 (in short BNSS), in the present case arising out of Crime No. 35/2025 registered with Murud Police Station u/sec. 8(c), 20(b)(ii)(A) and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 (in short NDPS Act), u/sec. 318(4), 336(3), 340(2), 338, 3(5) of Bharatiya Nyaya Sanhita, 2023 (in short BNS).
2. Perused the bail applications and say of the prosecution. Heard both sides.
3. It is the case of the prosecution that, on 29.06.2025 while on night patrolling at around 01.49 a.m., near Shighre Check Post, Police noticed a Grey Suzuki Motor Scooter coming

from Aagardanda towards Shighre Check Post. On seeing the Police, the pillion rider of the Scooter got down from the Scooter and ran away. The Police got suspicious and gestured the rider of the Motor Scooter to stop at the Check Post, but, he did not stop and tried to flee. However, the Police accosted him. He was frightened and was behaving in a suspicious manner. On inquiry, the Police learnt that the rider of the Scooter i.e. accused no. 1 Alwan Nisar Dafedar had 'Charas' in the dickey of his Scooter. The panch witnesses were called. After following due procedure as per Law, the search of the accused and his Scooter was taken. In dickey there were two packets, one containing 484 grams of 'Charas' and other packet containing 292 grams 'Charas'. When the Police inquired about the papers of the Scooter from him i.e. accused no. 1 Alwan Dafedar, he stated that he do not have the papers of the Scooter and the said Scooter is in the name of one Anoop Jaiswal i.e. accused no. 11 and above said Charas in the dickey of the scooter, belongs to Anoop Jaiswal. Accused no. 1 also disclosed that the pillion rider who was with him was also involved in the offence and his name was Raju. Accordingly, Crime No.35/2025 had been registered against the accused at Murud Police Station under Section 8(c) and 20(b) II (B), 29 of the NDPS Act and 318(4), 336(3), 340(2), 338, 3(5) of the BNS. During the investigation the names of other accused were revealed. According to prosecution all accused were in some way or other, part of the chain for the sale and purchase of 'Charas'.

4. Ld. Adv. Shri. Bangera submits that, this is second

bail application as regards accused no. 4 Anas Imtiyaj Kabale, Who came to be arrested on 01.07.2025. His prior bail application was rejected on the count that the investigation is in progress. He submits that, now the charge-sheet is filed. The filing of the charge-sheet is sufficient to show that, there is change in circumstance. No incriminating articles were seized from the possession of the accused no. 4. As regards accused no. 4 it is alleged that, he sold Charas to accused no. 6 Sahil Nadkar and on his say accused no. 6 sent Rs. 10,200/- to the Google Pay account of accused no. 1 Alwan Dafedar. He further submitted that, as regard accused no. 9 and 10 is concerned it is alleged that, accused no. 9 brings Charas from Uttar Pradesh and through his relatives accused no. 10 Anuj Jaiswal and accused no. 11 Anoop Jaiswal, used to sell the Charas to Accused no. 4. Accused no. 4 sold 100 gm Charas to Accused no. 6 Sahil Nadkar and accused no. 6 Sahil Nadkar was found in possession of 3.600 gm Charas. He further submitted that, there is recovery of 28 gm Charas from Accused no. 10 Anuj Vinod Jaiswal. He further submitted that, applicants/accused are arrested only on the basis of statement of co-accused and confessional statements of accused. He further submitted that, there are no criminal antecedents of the applicants/accused. Applicants/Accused are falsely implicated in the alleged offence with ulterior motive. The applicants/accused are ready and willing to furnish the bail and they will be available for Trial.

5. It was also contended that, bar u/sec. 37 is not attracted since no recovery has been made from the possession

of the applicants/accused herein. He place reliance on the judgment of the Hon'ble Orissa High Court in the case of **Tapas Kumar Swain @ Dalik V/s. State of Odissa in BLAPL No. 1787/2024** and submitted that, the applicants be released on bail on such terms and conditions as this court deems fit and proper in the facts and circumstances of the case.

6. Prosecution has opposed the bail of accused no. 4 by filing say at Exh. 45, of accused no. 10 by filing say at Exh. 55 and of accused no. 9 by filing say at Exh. 56 contending that, accused no. 10 Anuj Jaiswal and accused no. 11 Anoop Jaiswal used to purchase Charas from accused no. 9 Vishal Jaiswal and sale the same to accused persons and accused no. 10 has send money by Google Pay to accused no. 9, on sell of the Charas. Accused no. 9 has online transactions with accused no. 14.

7. Ld. P. P. further contended that, applicants/accused if released on bail they will get involved in similar offences and that some accused are yet to be arrested and applicants/accused will not get themselves available for trial. He further submitted that, in the present case 14 accused are arrested so far and two accused are still absconding. He further submitted that, police have recovered contraband i.e. Charas of totally 2 kg 687 gms from the possession of co-accused, which is commercial quantity and hence there is bar u/sec. 37 of NDPS Act, in granting bail, and hence their bail applications be rejected.

8. It is no more res integra that filing of the charge-

sheet is sufficient to say there is change in circumstance and therefore second bail applications of applicants/accused no. 4 is very well maintainable. In the present case only accused no. 1 was arrested on the spot with the contraband Charas weighing 776 gms. All other accused are arrested on the basis of the memorandum statements of accused and statement of co-accused, from different places at different times.

9. The Hon'ble Apex Court in the case of **Amarsing Ramjibhai Barot V/s. State of Gujrat, reported in 2005 Supreme Court Cases (Cri,)1804** held that, Sec. 29 of the NDPS Act could not be applied where two individual were found together were carrying recovered substances. The Hon'ble Bombay High Court (R. S. Mohite, J) in the case of **Smt. Rashida Iqbal Khan V/s. State of Maharashtra, in Cri. Application No. 2177 of 2006** held that, the offences involving the commercial quantity with accused will have to be established either with the aid of Sec. 29 of NDPS Act or Sec. 120B of the IPC or any other relevant provision, and granted bail to accused. The Hon'ble Bombay High Court in the case of **Sagar Nana Borkar V/s. State of Maharashtra, in Criminal Bail Application no. 3636/2022** observing that, the recovery of the contraband from the possession of each of the accused should be considered separately, granted bail to accused before the High Court. Having regard to the material brought on record by the prosecution on the issue of conspiracy, this court prima facie has not noticed any positive evidence against applicants on the said issue.

10. It is no more res integra in view of the Judgment of Hon'ble Supreme Court in case of **Tufan Singh V/s. State of Tamilnadu, in Criminal Appeal No. 152/2013**, that the confessional statement of accused cannot bind them of the offence.

11 Applicants/accused no. 4 and 9 were not found with the contraband Charas however there was recovery of 28 gm Charas from accused no. 10. In view of the legal position cited supra, applicants/accused cannot be said to be in possession of commercial quantity. Sec. 37 of NDPS Act prima facie will not be attracted as there is no material on record to infer that applicants/accused have hatch conspiracy to commit the offence. That being so at this stage it is difficult to infer that applicants are involved in an offence of commercial quantity. As such parameters laid down u/sec. 37 of NDPS Act will be of hardly any consequence while considering the prayer for grant of bail of the applicants/accused herein. The court is not informed about any criminal antecedents of the applicants/accused, which would disentitle the applicants/accused from bail. Hence I am impelled to exercise discretion in favour of the applicants/accused. Hence the following order.

:: ORDER ::

1. Bail applications at Exh. 26, 52 and 53 in Spl. (NDPS) Case No. 42/2025 are hereby allowed.
2. Applicant/accused no. 4 Anas Imtiyaz Kabale, applicant/accused no. 10 Anuj Vinod Jaiswal and applicant/accused no. 09 Vishal Ramkishan

Jaiswal, be released on bail on executing PR bond of Rs. 25,000/- each with one or two sureties of like amount.

3. Applicants/Accused shall not in any way indulge in any criminal activities and they shall not influence the witnesses or otherwise interfere with the fair trial.
4. Applicants/Accused shall furnish the self attested documents showing their residential address and Adhar Card, Pan Card if any and furnish their mobile numbers.
5. Applicants/Accused shall not leave India without permission of the Court.
6. Applicants/Accused shall attend the Court on each and every date.
7. If Applicants/Accused violates any of the bail conditions, Id. P. P will be at liberty to move the application for cancellation of bail.

Place: Alibag
Date: 09.10.2025.

Sd/-
(R. D. Sawant)
Sessions Judge, Raigad-Alibag.

CERTIFICATE

I affirm that, the contents of this P.D.F file order are same, word to word, as per the original order.

Name of Stenographer : Smt. S. S. Puro (Grade- I)

Court : Principal District Judge,
Raigad-Alibag.

Date of Order : 09.10.2025.

Order signed by the
Presiding Officer on : 09.10.2025.

Order uploaded on : 10.10.2025.