

MHRG010009822025



Spl. (NDPS) Case No. 42/2025

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

:: ORDER BELOW EXH. 34, 35, 36 ::
[Passed on 09.10.2025]

1. These bail applications are filed by applicants/accused no. 2 Ashish Avinash Dige, accused no.3 Pranit Pandurang Shigwan and accused no. 13 Mohasin Kasim Khan, 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. Singh for applicant/accused submits

that, this is second bail application as far as accused no. 2 and 3 is concerned. However, since the charge-sheet is filed, in view of change in circumstance, the present bail applications are filed by accused no. 2 and 3. He submits that, nothing is recovered from accused no. 2 and 3. As regards accused no. 13 Ld. Adv. Singh submitted that, the motor scooter is already seized. There is no recovery of Narcotic Drugs from accused no. 13. He is arrested from Palghar. He further submitted that, investigation is already completed and no purpose will be served by keeping the applicants/accused in the jail. Further it is submitted that, the applicants/accused are arrested only on the basis of statement of co-accused. 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.

5. Prosecution has opposed the bail of accused no. 2 and 3 by filing say at Exh. 43 and 46 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 no. 2 Ashish Dige and accused no. 3 Pravin Shigwan. Accused no. 2 and 3 purchased 4 kg Charas and sold ½ kg each to accused no. 7 and 8. Accused no. 7 Anil Bandu Patil made payment of Rs. 25,000/- in the Google Pay account

of mother of accused no. 2 and accused no. 8 made cash payment of Rs. 25,000/- towards Charas to accused no. 2 and 3. It was also revealed in the investigation that accused no. 2 and 3 made payment of Rs. 50,000/- to Anuj Jaiswal towards 4 kg Charas and accused no. 10 made online payment to accused no. 9.

6. As regards accused no. 13 prosecution filed say at Exh. 57 and claims that, accused no. 12 Faisal Asad Khan and accused no. 13 Mohasin Kasim Khan and wanted accused Ritik Agarwal, in conspiracy with each other tampered the number plate and Chasis of motor scooter MH-48/BK-9251 and sold it to accused no. 11 Anoop Jaiswal, who has used the same motor scooter for transportation of Narcotic Drug and from the said motor scooter 776 gm Charas was seized.

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. 2 and 3 can very well be entertained by this court. 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 In view of the abovesaid legal position, applicants/accused cannot be said to be in possession of commercial quantity. The present applicants/accused were not found with the contraband. 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. 34, 35 and 36 in Spl. (NDPS) Case No. 42/2025 are hereby allowed.
2. Applicant/accused no. 2 Ashish Avinash Dige, applicant/accused no. 3 Pravin Pandurang

Shigwan and applicant/ accused no. 13 Mohasin Kasim Khan, 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 in Dist. Raigad 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.