

(CNRNO-MHSNO-40005462025)

ORDER BELOW EXH.15 IN SPECIAL CASE NO.34/2025

(State of Maharashtra V/s. Kiran Bhimrao Ghadge and Ors.)

This is an application moved by accused No.3 Yuvraj Balu More for discharge under Section 250 of Bhartiya Nagarik Suraksha Sanhita.

2. Prosecution failed to file reply. However, argued the application opposing its contents. Heard Ld. advocate for accused No.3, as well as Ld. APP for the State at length in context with documents and the statements recorded during the course of investigation.

3. It is argued by Advocate for the accused that, accused no.3 along with other accused has been charged with the offence under Section 8(C), 20(b),(II)(b) and Section 29 of Narcotic Drugs and Psychotropic Substances Act 1985. The discharge is claimed on the ground that, accused is innocent. The accused has been arrested merely on the basis of statement of co-accused, who stated in his statement dtd. 06.05.2025 that he has brought Ganja from his relative Yuvraj More. There is nothing in the charge-sheet regarding identification pared of this accused. Moreover, there is nothing to show that the person named by co-accused is the same person i.e. accused no.3. The charges are totally untenable in law. No material is gathered by prosecution to show that seized Ganja belongs to accused no.3. The recovery is not made from this accused. No prima facie case is made out against the accused and no substance has been brought to show that this accused have any nexus with co-accused persons. There is no legal and acceptable material on record except bear words of co-accused that too in the form of his confession which hardly have any evidential value. There is no

substance to frame charge against the accused. Hence accused no.3 deserves to be discharged.

4. Ld. App for prosecution has submitted orally that the offence is of serious nature and all accused are involved in the commission of offence. Accused no.3 is the accused from whom accused no.1 and 2 has collected Narcotic drug i.e. Ganja. The prosecution have ample documentary evidence against the accused. Sufficient material is produced on record and there is material ground to have suspicion against the accused persons. It is further submitted that C.A. report is received from Chemical Analysis office and the report is positive showing existence of Narcotic substance in the muddemal seized from the possession of accused. Therefore it cannot be said that there is no reasonable ground to proceed against accused no.3. Prosecution is ready and willing to conduct the trial in expeditious manner. Moreover the F.I.R. and statements are the outcome of investigation conducted by investigation officer. The same are required to be appreciated at trial. At the stage of framing of charge, it is difficult to state that allegations are not sustainable. The charge is not groundless hence accused cannot be discharged at this preliminary stage. Hence, application is liable to be dismissed.

5. At the backdrop of legal position on the point of discharge, I have gone through the material produced by the prosecution by way of charge-sheet. The accused no.3 has not put forth any documentary material while moving said application. I have gone through the material which is available in the nature of charge sheet. It contains FIR, report lodged by the complainant, panchanama, statement of witnesses as well as C.A. report received from C.A. office, Kolhapur. The contents of said examination report shows that the articles contained in Exh.No.1 and 2 i.e. the

flowering fruiting tops with greenish leaves are Ganja. Said report has been submitted by the government office and said scientific report carries material evidentiary value. Interalia to this, I have perused other documents produced on record by prosecution alongwith charge-sheet. Undoubtedly, the contraband has been allegedly seen from possession of accused no.1 and 2 and there is no direct recovery from the possession of accused no.3. However, the provision of Section 29 of N.D.P.S. Act make it clear that the act of abetment as well as criminal conspiracy are also punishable though the specific recovery is not from abettor or conspirator. The prosecution has levelled the charge against all accused including accused no.3 under Section 29 of N.D.P.S. Act and the main allegation is under Section 8(C), 20(b),(II)(b) of Narcotic Drugs and Psychotropic Substances Act, 1985. Therefore the recovery from possession of accused is not the only criteria to implicate any person as accused in such serious crime. The abetment, conspiracy and attempt are equivalently made punishable under N.D.P.S. Act. All above documents combinely suggest the involvement of accused no.3 in commission of crime and the charges are prima facie made out.

6. The prosecution has specifically come with the case that alleged contraband Ganja has been seized from the possession of accused no.1 and 2 and said Ganja was obtained by them from accused no.3. The question whether identification pared of accused no.3 was to be conducted or not is a question to be decided on merit while determining the controversy involved in this crime. At present juncture, the material available on record is sufficient to hold that trial can be commenced against all accused persons. At present juncture, I found no material substance in the submission of advocate for accused no.3 that the charges are not prima facie made

out. The material placed on record by the prosecution is at present sufficient to frame charge.

7. It is pertinent to note that trial is yet not commenced and the statement of complainant and other witnesses are required to be appreciated at trial and at the stage of framing of charge, it is difficult to state that allegations are not sustainable. It is pertinent to note that a Judge while considering the question of framing charges has undoubtedly vast power to sift and weigh the evidence for limited purpose of finding out whether a prima-facie case against the accused has been made out or not. Where the material placed before the Court disclose grave suspicion against the accused, which has not been properly explained, the Court will be fully justified in framing charge and proceeding with the trial.

8. At present juncture, there is nothing on record to show that these witnesses have not supported complainant's case. It is settled principle of law that the allegations levelled against the accused in the charge sheet are to be proved by the prosecution on the touchstone of evidence. The defence side also gets opportunity to disprove the charges levelled against them.

9. Hence, in view of aforesaid discussion, I have arrived at the conclusion that the application moved by accused No.3 having no merit is liable to be rejected. Resultantly, I proceed to pass following order :-

ORDER

Application stands rejected.

(A. H. Kashikar)

Date: 18/02/2026.

Additional Sessions Judge,
Islampur.

CERTIFICATE

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

Name of the Stenographer	: S.W.Pathan, Steno, (Grade-I)
Court Name	: Adhoc District Judge – 1 & Addl. Sessions Judge, Islampur.
Date	: 18/02/2026
Signed by P.O. on	: 18/02/2026
Uploaded on	: 18/02/2026