

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J) No. 539 of 2025

Minhaj Alam		Appellant
Versus		
The State of Jharkhand		Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant	: Mr. Pankaj Srivastava, Advocate
For the State	: Mr. Vishwanath Roy, Spl.PP

06/Dated: 13th October, 2025

I.A. No.9122 of 2025

This Criminal Appeal has been filed on behalf of the appellant namely, Minhaj Alam challenging the judgment of conviction and Sentence dated 17.04.2025 passed by then learned Sessions Judge, Garhwa in N.D.P.S Case No.02 of 2023, arising out of Garhwa P.S. Case No.108 of 2023 by which the appellant along with one Rahim Ansari had been convicted for the offence under Section 20(b) of N.D.P.S Act and sentenced to undergo R.I. for five (05) years each and to pay the fine of Rs.50,000/- (Rs.Fifty Thousand) each.

2. I.A. No.9122 of 2025 has been filed on behalf of the appellant for suspension of sentence and for grant of bail to the appellant, during pendency of the present Criminal Appeal.

3. Heard Mr. Pankaj Srivastava, learned counsel for the appellant and learned Spl.PP for the State.

4. Learned counsel for the appellant submitted that the impugned judgment and sentence passed by the learned Court below is illegal and not sustainable in the eye of law. It is submitted that the appellant is innocent and has not committed any offence. It is submitted that the alleged recovery has been

made from the Motorcycle of co-convict Rahim Ansari. It is submitted that even the alleged recovery of 1040 gms Ganja was shown from the Motorcycle of co-convict and the said weighment of the Ganja was done by the informant along with the bag and polythene. It is submitted that even the recovery of the Ganja was less than one (01) Kg but as it was measured with the bag (Jhola) and two (02) polythenes, it has increased to 1040 gms (i.e. 01 Kg and 40 gms) and the recovered quantity can be treated as lower quantity. It is submitted that during trial, the shopkeeper was examined as P.W-9 has stated that Ganja was even weighed in his shop and for which he had given a paper to the police but the said paper was not marked as exhibit during trial. It is submitted that even the FSL report was not examined in presence of the witnesses rather it was examined and marked under section 293 of Cr.P.C without allowing the appellant to cross-examine on the said aspect of FSL report. It is submitted that the appellant was in custody for around four months during trial (i.e. from 17.03.2023 to 18.07.2023) and thereafter he is in custody since 17.04.2025 i.e. for around five months and thus he has remained in custody for around nine months and hence, the appellant may be enlarged on bail.

5. On the other hand, learned APP has opposed the prayer for bail. It is submitted that the appellant was caught red handed along with co-convict Rahim Ansari while they were carrying Ganja on the Motorcycle. It is submitted that P.W-1- Chandan Kumar is the informant of this case and P.W-2- Awadh Kumar Yadav is the SDPO, Garhwa and they have fully supported the case. It is submitted that P.W-3, P.W-4 and P.W-5 namely, Suryabhushan Kumar Singh, Samendra Kumar

Singh and Arun Prakash Baitha are also members of raiding party and eye witnesses of the occurrence. It is submitted that P.W-9 is the shopkeeper in whose shop weighment of Ganja was done and thus the prayer for bail of the appellant may be rejected.

6. Perused the Trial Court Records and considered the submission of both the sides.

7. It appears from the Trial Court Record that the seized Motorcycle in question belongs to co-convict Rahim Ansari and which he has also admitted during his statement recorded under section 313 of Cr.P.C.

8. It also appears that the weighment of seized Ganja was done in the shop of P.W-9. However, P.W-9 namely Srikant Kumar, during evidence, stated that he is not aware of the weighment and also not aware of the materials kept in the bag and he has given one paper of weighing of material.

9. It reveals that during trial the said paper has not been marked as exhibit during trial and thus the weight of the material is not available.

10. It transpires that the P.W-1-Chandan Kumar is the informant of this case and he himself admitted during evidence at para-4 and cross-examination at para-19 that the weighment of Ganja and the bag were made together and it was not separated and both were not weighed separately.

11. It reveals that the I.O has not produced the certificate of shopkeeper regarding weighment of Ganja in question and there is dispute in the weighment of material (i.e. Ganja) in question.

12. Considering the facts and circumstances of the case and the custody of the appellant, the appellant namely, Minhaj

Alam, is directed to be released on bail, on furnishing bail bonds of Rs.15,000/- (Fifteen Thousand only) with two sureties of the like amount, to the satisfaction of learned Sessions Judge, Garhwa in N.D.P.S Case No.02 of 2023, arising out of Garhwa P.S. Case No.108 of 2023, subject to the condition that one of the bailors must be the own blood relative of the appellant and also subject to the Undertaking that the appellant will not indulge in such type of crime in future again and he will not thereafter induce the witnesses directly or indirectly examined in this case till the final hearing of the appeal and also subject to the condition that he must be represented through his counsel on the date of hearing fixed in this appeal, failing which, the prosecution will be at liberty to take steps for cancellation of his bail.

13. Thus, I.A. No.9122 of 2025 is allowed and stands disposed of.

14. Let a copy of this order be sent to the Superintendent of Police, Garhwa.

(Sanjay Prasad, J.)

Dated: 13.10.2025
Saket/-