

A.F.R.



IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.4294 of 2025

(In the matter of application under Section 483 of the BNSS).

Kizakkekalayil Anujikumar ... ***Petitioner***
Anujith

-versus-

Union of India ... ***Opposite Party***

For Petitioner : ***Mr. P.Nayak, Advocate***

For Opposite Party : ***Mr. S.Panda, CGC***

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & DATE OF JUDGMENT:08.01.2026 (ORAL)

G. Satapathy, J.

1. This is a bail application U/S.483 of BNSS by the petitioner for grant of bail in connection with F. No. VIII(48)2Cus(P)/Seizure of Marijuana (H.W.)/BPIA/2025 corresponding to TR Case No.23 of 2025 pending in the file of learned District & Sessions Judge, Bhubaneswar for commission of offences punishable U/Ss.20(b)(ii)(C)/23/29 of NDPS Act, on the main allegation of possessing 3.990Kgs. of Hydroponic Weed/Marijuana(Ganja).



2. Heard Mr.Pratik Nayak, learned counsel for the petitioner and Mr.Sudipto Panda, learned CGC in the matter and perused the record.

3. In the course of argument, a question comes before this Court that whether the quantity of Contraband article seized in this case is commercial quantity or intermediate quantity. According to learned CGC, since the Contraband article comes within the purview at serial No. 150 of Scheduled of the notification specifying small quantity and commercial quantity, the chemical product of the Contraband article is Tetrahydrocannabinol and, therefore, anything more than 50Grams of such compound comes under commercial quantity, but Mr.Pratik Nayak reaffirms that the Contraband article seized in this case belongs to Cannabis Group and thereby, the quantity of Contraband article to be commercial quantity must be more than 20 Kgs. No doubt, the Contraband article namely, Marijuana has not been defined in anywhere in the NDPS Act, but according to the Chambers Dictionary 12th Edition, Marijuana as noun is the hemp plant (Cannabis



Sativa); its dried flowers and leaves smoked as intoxicant. Similarly, Marijuana is defined in Oxford Dictionary as a noun a drug made from the dried flowers of the cannabis plant, which is smoked or consumed as a psychoactive (mind-altering) drug and the same also known as Ganja and thereby, Marijuana is a product of Cannabis which is further strengthened and evidenced from the prosecution papers in which the Contraband article has been described as Marijuana(Ganja). Be that as it may, Cannabis has been defined in Sec. 2(iii)(b) of the NDPS Act which is reproduced as under:-

*"2(iii)(b) Ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by **whatever name they may be known or designated.**"*

4. In this case, the inventory of the seized materials reveals that eight packets were allegedly seized from the possession of the petitioner and the packets contained dried flower/plant like substance and, therefore, the Contraband article in this case is dried flower/plant like substance. In the circumstance as per the definition of Cannabis, it is emphasized that



the drug may be called by whatever name, it is Cannabis if that is the flowering or fruiting tops of Cannabis plant. It is also found from the copy of the order dated 22.04.2025 passed by the learned Addl. Sessions Judge, BBSR that the petitioner has been charged for commission of offence punishable U/S. 20(b)(ii)(B)/23/27(A)/28/29 of the NDPS Act.

5. It is no doubt argued by Mr.Panda that the Contraband article seized in this case is more than the commercial quantity as per the chemical compound that was unearthed from the substance which was allegedly seized from the petitioner, but no material or document has been brought to the notice of the Court to show that the quantity of such articles seized comes under commercial quantity and even the scheduled of the notification does not reveal about Marijuana to be an item, however, basing on the definition and the materials produced before this Court, it prima facie appears to the Court that the Contraband article seized in this case appears to be Marijuana(Ganja). Further, Marijuana is referred to a product of Cannabis and sometimes it may be called as Hydro-Ganja,



Hydroponic weed, High-grade Ganja, but by whatever name it may be called, it is a product of Cannabis and thereby, the definition as contemplated in Sec. 2(iii)(b) comes into play which reveals the flowering & fruiting tops by whatever name it may be called, it is Ganja. Once the Contraband article is considered to be Ganja, then the limit of commercial quantity is 20Kgs, but in this case the petitioner is allegedly found to be in possession of 3.990Kgs. of Marijuana which would be coming under intermediate quantity and thereby the prohibition/embargo as provided U/s. 37 of NDPS Act would not be attracted.

6. Further, it is found from the record that the petitioner is a carrier, but he is not the main accused to have procured and the petitioner is in custody since 14.01.2025. Besides, in the meantime, charge has already been framed, but witnesses are yet to be examined, however, no criminal antecedent of similar nature has been reported against the petitioner by the Union of India and the petitioner is a young boy and was a student of Pharmacy and he was introduced to one "Mr.Mao of Thailand" by his own friend and the



said person namely Mr.Mao had allegedly kept the consignment of Contraband article in the luggage of the petitioner.

7. In view of the aforesaid discussions of facts together with the provision of law and there being long custody of the petitioner and keeping in view the other circumstance on record, this Court considers that the petitioner has made out a case for grant of bail.

8. In the result, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) only with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper by it with following stringent conditions:-

*(i) the petitioner in the course of trial shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with. **In case the Petitioner fails without sufficient cause to appear in the Court in accordance with the terms of the bail, the learned trial Court may proceed against the Petitioner for offence U/S.269 of***



BNS, 2023 in accordance with law,

(ii) the petitioner shall not leave the country without prior permission of the learned trial Court till disposal of the case,

(iii) the Petitioner shall inform the Court as well as the Investigating Agency as to his place of residence during the trial by providing his mobile number(s), residential address, e-mail, if any, and other documents in support of proof of his residence. The Petitioner shall not change his address of residence without intimating to the Court and Investigating Agency,

(iv) In case the Petitioner misuses the liberty of bail and in order to secure his presence, proclamation U/S.84 of BNSS, 2023 is issued and the Petitioner fails to appear before the Court on the date fixed in such proclamation, then, the learned trial Court is at liberty to initiate proceeding against him for offence U/S.209 of BNS, 2023 in accordance with law.

(v) The petitioner shall surrender his passport, if not seized.

9. Accordingly, the BLAPL stands disposed

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Reason: Authentication
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Date: 09-Jan-2026 15:33:34

**(G. Satapathy)
Judge**