IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.1205/2026
(Akash S/o Bhagirath Sayam Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. R.M. Daga, Advocate for applicant.
Mr. N.R. Rode, APP for non-applicant/State.

CORAM: M. M. NERLIKAR, J.

DATED : 16/10/2026.

Heard.

2. By this application, the applicant is seeking bail in connection with Crime No.761/2025 registered with Police Station Kapil Nagar, Dist Nagpur for the offences punishable under Sections 8(c), 22(c), 29 of the Narcotic Drugs and Psychotropic Substances Act (“NDPS”), Sections 3(1), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act (“MCOCA”).

3. Brief facts of the prosecution case are that, on the basis of secret information, a raid was conducted on 28/11/2025 at 23:00 hrs. after duly complying with the provisions of the NDPS Act. When the raiding party approached the spot, three persons were found in suspicious circumstances. The present applicant including

other persons were taken into custody on suspicion. The total quantity of substance allegedly seized during the raid was approximately 85.030 grams of MD powder having an alleged value of Rs.4,25,150/-. In addition, four mobile phones, cash, one Honda Amaze four-wheeler, Royal Enfiled Bullet etc. were seized and the total value of the seized articles was to the tune of Rs.12,71,750/-.

4. The learned counsel for the applicant submits that in the present crime, there are total four accused persons. From accused namely Samir Ahmad, 28.290 grams of MD drug was allegedly recovered. Another accused namely Imran Ahmad was also taken into custody. The learned counsel submits that the applicant was standing at somewhat distance from the aforesaid accused persons and was apprehended by the investigating agency on suspicion. The car which was standing near the co-accused persons belonged to Samir Ahmad from which 56.740 grams of MD drug was seized. Accordingly, all the three accused persons were arrested by the investigating agency. The learned counsel submits that so far as the present applicant is concerned, he has no criminal antecedents. However, despite the absence of criminal antecedents, the

provisions of MCOCA have been invoked against the applicant. He further invited attention of this Court to the chemical analysis report indicating that the powder found in car the weighing 56.740 grams was identified as Ajino Moto/Chinese salt. The provisions of MCOCA would only be applicable if a commercial quantity is seized i.e. more than 50 grams as per the State Amendment of the Organized Crime. Therefore, he submits that neither the provisions of the MCOCA would be applicable nor rigours of Section 37 of the NDPS Act would be attracted. Therefore, he prays for grant of bail to the applicant as he was arrested only on the basis of suspicion.

5. On the other hand, the learned APP vehemently opposes the application and submits that the applicant is the friend of younger brother of Samir Ahmad. The applicant and co-accused were together and when search was conducted, said Samir was in conscious possession of of MD drug. When the powder found from Samir and the car was examined on detection kit, it was found that both were MD drugs which can be seen from the Panchanama. Though he submits that the CA report does not support the seizure made from the car. Under such circumstances, he

submits that as all the accused were apprehended from the spot therefore, it cannot be said that the applicant was not having any connection with the said crime. Therefore, the application deserves to be rejected.

6. Upon consideration of the submissions of both the sides, it appears that the first information report was registered on 29/11/2025. It further appears from the record that, upon conducting personal search of Samir Ahmad contraband weighing 28.290 grams was seized from him. However, nothing incriminating was found in the applicant's possession, upon his search. It is further to be noted that 56.740 grams of powder was found from Samir Ahmad's car which upon examination conducted by detection kit was found to be MD drug. However, surprisingly upon chemical analysis, the substance seized from the car was found to be Ajinomoto i.e. chinese salt. Under such circumstances, the only seizure which at present can be relied upon is the contraband which was seized from the person namely Samir Ahmad weighing 28.290 grams which is less than commercial quantity of MD drug i.e. 50 grams.

7. So far as the persons engaged in the business of narcotic drug and psychotropic substances are concerned, they are included in the definition of organized crime under the MCOCA. However, clause (2) provides that, for attracting the provisions of MCOCA, a commercial quantity should be involved. When the CA report itself discloses that the major portion i.e. 56.740 grams which was seized from the car is not MD drug but Ajinomoto i.e. Chinese salt, I am of the considered opinion that that the provisions of MCOCA would not be applicable.

8. Be that as it may, so far as the role of the present applicant is concerned, admittedly it appears that when the applicant was searched, nothing was found on his person except a mobile phone and cash to the tune of Rs.2000/- Even, the learned APP has not shown any connection between the present applicant with other accused persons, except the fact that the applicant is a friend of the younger brother of the co-accused Samir. Considering the nature of allegations and the fact that the applicant has made out a case for grant of bail, I am inclined to grant bail.

9. One another glaring fact is when both the contrabands seized from Samir and car were examined on the spot by using detection kit, both were found to be MD drug. However, the description of the contraband seized from the car was recorded as moist brown powder whereas in the CA report, it was described as brownish colored crystals. It is necessary to examine how crystals were forwarded for the testing to the regional forensic laboratory, when the substance was found to be in the powder form. The Commissioner of Police, Nagpur shall look into the matter to ascertain why such discrepancy occurred while forwarding the said contraband seized from the car to the regional forensic laboratory. Hence, the following order:-

ORDER

(i) Criminal application is allowed and disposed of.

(ii) The applicant/accused Akash S/o Bhagirath Sayam be released on bail in connection with Crime No.761/2025 registered with Police Station Kapil Nagar, Dist Nagpur for the offences punishable under Sections 8(c), 22(c), 29 of the NDPS, Sections 3(1), 3(2), 3(4) of the MCOCA on his furnishing PR bond of Rs. 50,000/-with two sureties in the like amount.

(iii) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

(iv) The accused shall provide his residential address and cell number to concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.

(v) The applicant/accused shall attend each and every date of trial regularly. If he fails to attend the trial on even a single date or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail.

10. Pending application (s), if any, stand disposed of accordingly.

11. The observations of this Court are prima facie in nature and are only limited to this application. The Trial Court shall not be influenced by the aforesaid observations.

(M. M. NERLIKAR, J.)

Gohane

Signed by: Mr. J. B. Gohane
Designation: PS To Honourable Judge
Date: 19/10/2026 13:06:54