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# **CULTURAL LEGITIMACY VS. LEGAL PROHIBITION: THE STATUS OF BHANG CONSUMPTION UNDER INDIAN NARCOTIC LAW**

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## **ABSTRACT**

Bhang regulation in India illustrates how a federal structure can respect cultural practices while keeping drug control intact under the Narcotic Drugs and Psychotropic Substances Act. The starting point is statutory definition. By excluding leaves and seeds without tops, Section 2(iii) NDPS narrows narcotic status to resin and flowering tops, which leaves bhang to State control through Section 10. The analysis classifies three pathways. Licensing States publish annual policies or standalone bhang rules that allocate retail outlets, set quantity caps, and formalize procurement from designated suppliers. Legacy-rule States retain mid twentieth century excise frameworks that rely on auctions and farm gate controls to fix fees and revenue. Restrictive States either prohibit or avoid specific policy, keeping retail scarce while the NDPS baseline governs criminal exposure. Constitutional filters of competence and repugnancy test the validity of each pathway, with Article 254 supplying Union priority where direct conflict emerges. Enforcement study tracks resin detection practices, sampling, and certification under Section 52A NDPS to distinguish ganja from leaf-based preparations and to reduce wrongful seizure. The comparative framework suggests a specific chapter in State excise that covers off-premises sales, age limits, transaction limits, laboratory testing, tamper-evident packaging, and bonded warehouse supply with a traceable chain of custody. It prescribes escalated penalties for any mixing with tops or resin, linking sanction gravity to detected tetrahydrocannabinol content and deliberate adulteration. The framework preserves Union control over narcotic substances while standardizing State tools for bhang, supporting cultural visibility in public rites and seasonal consumption, and producing predictable compliance. The research highlights a model that lowers conflicts among departments, specifies what is expected from stores, and raises the quality of evidence for successful prosecution as well as that does not displace State authority.

**Keywords:** Bhang; NDPS Act; cannabis leaves; state excise; licensing; cultural practices; federalism; Article 254; harm reduction; India

## Introduction

Bhang has a unique legal status in India. The legislation delineates the control of Parliament over narcotic substances from that of the state's over excise and revenue, thereby showing a distinct allocation of responsibilities. Section 2(iii) of the NDPS Act defines "cannabis (hemp)" to include charas and ganja, but at the same time, it expressly excludes "seeds and leaves when not accompanied by the tops." The exclusion thereby puts bhang, as it is prepared from leaves, outside the main circle of legal restrictions. Consequently, the leaf-only cultural practices with bhang are being carried out under licensed retail as per State excise laws, and criminal liability is mostly directed towards resin and flowering or fruiting tops. The differences in enforcement, witnesses, and practices, however, result in confusion in regulations and inconsistency in prosecutions from one area to another. The present research is a blend of legal analysis and administrative design. It initially frames bhang as an NDPS offense, disassociating leaf-only products from ganja and charas, and listing the plant parts that need to be examined as evidence. Following that, it reviews certain state regulations like the excise system in Rajasthan and the specific licensing rules for bhang in Uttar Pradesh. The analysis of this part helps the reader understand how the legal market for leaf-only products is structured through licensing, quotas, and controlled retail. The study also goes through the provisions ensuring the protection of evidence that are laid down in Section 52A of the NDPS as well as the NDPS (Seizure, Storage, Sampling, and Disposal) Rules. It underlines the importance of having uniformity in sampling, inventory, and disposal so that the instances of proof errors have the least possible chances to occur. The final part of the paper brings forth suggestions related to harm reduction that comprises of such things as age restrictions, purchase limits, and batch testing in laboratories, etc. The implementation of these activities by States under Section 10 should be in harmony with the industrial/hemp exemption in Section 14 while giving a thought to the restrictions emanating from Article 254. These measures, when properly crafted, can not only attract more compliance but also prevent illegal mixing of flowers and resin and at the same time, allow for federal oversight which does not weaken Parliament's authority over the cultivation of narcotic cannabis products.<sup>1</sup>

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<sup>1</sup> Vera Rubin, *Cannabis and Culture* 172 (Mouton, The Hague and Paris, 1st edn., 1975).

## **Statement of the Problem**

The manner in which India regulates bhang is an indication of a convoluted legal framework that is at once reflective of its cultural recognition and an exception made for it under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). The NDPS Act prohibits certain products of cannabis, such as ganja and charas; however, it defines them in a way that it only allows the consumption of leaves and seeds that are not accompanied by flowering tops. In other words, the law does not explicitly mention bhang. Accordingly, the states can pass their own laws on the matter of bhang which will be different from the excise laws sanctioned by them. But this also means that the licensing, retail controls, and enforcement practices that each of these places have can be so different that there is quite a significant variation. The disparities also result in difficulties when prosecutions, such as there is no guarantee of fairness, the law is vague, and a wrong person may be accused due to mistakes in forensic identification.

Furthermore, state excise laws are embedded in a federal system, and this means that the constitutional provisions in Article 254 become relevant whenever there is a question about the compatibility that exists between these states' actions and the national narcotics policies. The job of enforcement is harder still because there are different standards and methods that are used to identify bhang and ganja but these are not always applied. Hence, the fundamental problem is how the cultural acceptance and state control over bhang can be balanced with the legal clarity that is needed for criminal and regulatory enforcement that are consistent under the national narcotics law.

## **Objectives of the Study**

The Objectives of the study are as follows:

1. To thoroughly investigate the legal status of bhang as per the NDPS Act and various state excise laws across India and to represent it graphically.
2. To analyse judicial interpretations and decisions that have thrown light on the position of bhang with respect to the term's ganja and charas.
3. To review the mechanisms of law enforcement such as standards of forensic science and procedural safeguards under the NDPS Act.

4. To identify the most significant features of state control regimes and to present a detailed comparison of four state control regimes viz licensed, heritage, regulated market, and restrictive regimes that reflect theoretically possible policy options for bhang regulation.
5. To analyse the constitutional validity of state regulation of bhang with reference to the principles of legislative competence and repugnancy.
6. To offer not only doctrinally accurate but also administratively practicable models that facilitate Union control over narcotics while granting permission to state level bhang regulation.
7. To point out the factors contributing to cultural acceptance and the role that public health has in regulatory design with respect to bhang.

### **Research Questions**

The research questions for the study are as follows:

1. What is the legal position of bhang as per Section 2(iii) of the NDPS Act, and consequently, how does this matter affect the regulation of bhang by states?
2. To what extent have the Indian courts interpreted the possession and use of bhang as against that of ganja and charas under the NDPS Act?
3. What are the main means through which states oversee bhang, and in what way do these disclose federal competence and policy variation?
4. What is the impact of enforcement and forensic practices on the accurate classification of forcibly taken cannabis materials as bhang or ganja?
5. How can Article 254 of the Constitution be applicable to the vanguard of potential conflicts between state bhang regulation and central narcotics control?
6. What is the relationship between different state frameworks and cultural practices, and what measures exist for protecting against misuse and illicit admixtures?

## **Research Methodology**

This research employs the doctrinal method to investigate the illegal status of bhang in India with due consideration to the narcotic and excise regulations. The study heavily relies on legal interpretative techniques and comparative legal analysis. It refers to the NDPS Act, 1985, mainly to the definitions of Section 2(iii) and the general provisions of Sections 8 and 10. These provisions define the matter of central control over narcotics and the authority of local administrations. Apart from that, the study specifically examines the laws regarding excise in different states, for example, the Uttar Pradesh Excise Act, 1910, and the Bhang Rules, 2025; the Punjab Supply and Sale of Bhang Rules, 1956; and the Madhya Pradesh Bhang Rules, 1960. This allows the researchers to analyze how different jurisdictions exercise their control over bhang.

Among the primary sources are the central and state legislations, the government notifications, and the judicial decisions of various High Courts. The decisions of the courts in cases like *Arjun Singh v. State of Haryana* and *Sevaram v. State of Rajasthan* are examples, which point out that bhang, if it is only made from leaves, is beyond the ambit of penal provisions of the NDPS Act. Research works and other related academic materials, e.g., commentaries, government reports, and circulars of policy, inter alia, with the intergovernmental, historical, and cultural facets of the regulation of bhang, are given consideration by the author in this regard. Essentially, the approach includes a federal comparison that considers how licensure, retail, and compliance activities have been organized by the states, within the constitutionally established limits laid down by Article 254.

The scope of the doctrinal assessment extends to procedural laws, for instance, it covers evidence and enforcement rules, as per Section 52A of the NDPS Act, Section 329 of the *Bharatiya Nagarik Suraksha Sanhita*, 2023, and Section 39 of the *Bharatiya Sakshya Adhiniyam*, 2023. The study dealt with the role of forensic science in separating bhang from ganja. The present research method used by the researchers of the ILI (Indian Law Institute) is quite consistent with the ILI (Indian Law Institute) footnote style, and it ensures the proper, accurate citation, as well as the retracing of the legal sources. In conclusion, the methodology was effective to the extent that the understanding of bhang's cultural and excise and narcotic frameworks according to the studied works was more in depth.

## Statutory Framework

Bhang is still grounded in the confluence of Indian federal authority, where a single narcotic system co exists with the different state excise laws. In the NDPS scheme, Narcotic drugs, and psychotropic substances are under very stringent regulations. But the law deliberately omits non resin and non-flowering parts of the cannabis plant, i.e., leaves and seeds. Therefore, bhang being a product of leaves only comes under less severe punishments and is the responsibility of the state excise authorities.<sup>2</sup>

Parliament has the authority to legislate on narcotic drugs while states manage excise and intoxicants. The central government has dominance in the case of direct conflict between the two. Nevertheless, the NDPS definition marks the boundary of criminal behavior, whereas state laws regulate those that do not contain the banned plant parts. Consequently, bhang continues to be available in terms of culture and commerce during festivals or from the licensed outlets, even though ganja, charas, and products made from tops or resin are still hard illegal. On the other hand, central policy papers also mention the role of the state in limited permission for the cultivation of cannabis for medical or scientific use but regular bhang sales continue to be an excise issue. The whole composition is, thus, bipolar: the federal nadir on narcotic cannabis and the state bhang control.

## NDPS Act Position

The NDPS baseline turns on the statutory definition of cannabis and the operative prohibitions that follow. “Section 2(iii) of the NDPS Act” defines “cannabis hemp” in three limbs, namely charas as resin, ganja as flowering or fruiting tops, and any mixture or drink prepared from those forms. Crucially, the clause defining ganja expressly excludes “the seeds and leaves when not accompanied by the tops”, which is the textual bridge that keeps bhang, as a leaves-based preparation, outside the NDPS net when it is not derived from prohibited parts. The operative “Section 8 of the NDPS Act” then proscribes cultivation of the cannabis plant and a wide suite of activities concerning narcotic drugs, which covers ganja and charas, but does not reach bhang prepared from leaves alone. Where cultivation or controlled activities are contemplated for medical or scientific purposes, “Section 10 of the NDPS Act” empowers State Governments to permit, control, and regulate, read with the prohibitory structure of Section 8. State licensing,

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<sup>2</sup> Yogendra P. Balhara, Sandeep Mathur, "Bhang - Beyond the Purview of the Narcotic Drugs and Psychotropic Substances Act", 31 *Lung India* 431 (2014).

although under the strict supervision of the federal government, is according to the central policy still allowed to cover medical and scientific cannabis cultivation. Besides this, the policy also states that the different forms of a narcotic are still very tightly regulated. The reason why the isolation of leaves and seeds is significant is that it prevents the use of bhang being recognized as an offense under the NDPS law. This applies as long as the preparation does not include tops and is not mixed with charas or ganja. Any preparation that drifts into the definition of a “mixture” of prohibited cannabis forms would invite NDPS consequences, including quantity based sentencing rules elsewhere in the statute. In doctrinal terms, cultural legitimacy of bhang does not create a legal defense, rather the defense flows from the statutory text that leaves bhang outside the scope of cannabis as a narcotic drug. That line, although linguistically simple, allocates regulatory power down to the states and preserves the central policy’s narcotics control aims without extending them to traditional leaves-based preparations.<sup>3</sup>

### **State Excise Interface**

The exclusion of leaves and seeds from the NDPS definition creates a space in which state excise statutes and policies govern bhang as an excisable intoxicant through licensing, fees, quotas, and retail modalities. States draw authority from the constitutional entries on state excise and intoxicating liquors, and they have long issued detailed rules on the supply and sale of bhang, including wholesale and retail license forms, auction or draw procedures, fee schedules, and movement controls through permits and passes. For instance, the “Uttar Pradesh Excise Settlement of Licenses for Retail Sale of Bhang Rules, 2025” provide a structured regime for retail licenses, minimum guarantee quantities, and daily license fee computations, illustrating how states manage bhang through revenue linked control rather than prohibition. Punjab’s “Supply and Sale of Bhang Rules, 1956” historically specify wholesale and retail license categories, auction-based fees, and controls on import and export within administrative channels, while the “Rajasthan Excise Act, 1950” and the “Rajasthan Excise Rules, 1956” empower district excise authorities to grant retail licenses for excisable articles, a category within which bhang is administered as policy permits. Audit and administrative manuals also record that state excise revenue streams include bhang alongside liquor and poppy straw, which reinforces the classification of bhang within excise rather than narcotics control. Concurrency and repugnancy questions arise only if a state measure purports to authorize activities with

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<sup>3</sup> Narcotic Drugs and Psychotropic Substances Act, 1985, available at: <https://www.indiacode.nic.in/bitstream/123456789/18974/1/narcotic-drugs-and-psychotropic-substances-act-1985.pdf> (last visited on October 08, 2025).

prohibited cannabis parts or otherwise conflicts with NDPS prohibitions, in which case the central statute would prevail, and state permissions would be void to the extent of inconsistency. State excise laws function without any clashes when bhang is made strictly from leaves. Thus, different types of regimes appear in all the states of India, from those which are more involved in the licensing of shops and the distribution of the authorized quantity to those that are more restrictive in that they only allow the sale under certain conditions. Such differences indicate local administrative preferences within the boundaries of the NDPS definition, and at the same time, they maintain the clear distinction that the combination of any mixture with ganja or charas leads to central bans.<sup>4</sup>

| State/UT             | Governing Statute or Rules                                                                                                           | Licence Types                                      | Retail Modalities                                                    | Penalties                                                                                              |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| <b>Uttar Pradesh</b> | <i>Uttar Pradesh Excise Act, 1910; Uttar Pradesh Excise Settlement of Licences for Retail Sale of Bhang Rules, 2025</i> <sup>5</sup> | Wholesale and Retail Licences (Form CL-1 and CL-2) | Retail sale through licensed shops; auction or draw-based allocation | Fine up to ₹10,000 or cancellation of licence for breach under “Section 62 of the UP-Excise Act, 1910” |
| <b>Punjab</b>        | <i>Punjab Excise Act, 1914; Punjab Supply and Sale of Bhang Rules, 1956</i>                                                          | Wholesale and Retail Licences                      | Auction system for retail; sale through authorised vendors           | Penalty under “Section 61 of the Punjab Excise Act, 1914” for illegal sale or possession               |
| <b>Rajasthan</b>     | <i>Rajasthan Excise Act, 1950; Rajasthan Excise Rules, 1956</i> <sup>6</sup>                                                         | Retail Bhang Licence (Form BH-2)                   | Retail outlets licensed annually through tender-cum-auction          | Cancellation and confiscation under “Section 54 of the Rajasthan                                       |

<sup>4</sup> Bidyut Kumar Banerjee, Srinivasan Gopal, *Law Relating to Narcotic Drugs & Psychotropic Substances* 204 (Eastern Book Company, Lucknow, 1st edn., 2021).

<sup>5</sup> Uttar Pradesh Excise Settlement of Licences for Retail Sale of Bhang (Fourth Amendment) Rules, 2025, available at: <https://complinty.com/legal-update/uttar-pradesh-excise-settlement-of-licenses-for-retail-sale-of-bhang-fourth-amendment-rules-2025-19342> (last visited on October 11, 2025).

<sup>6</sup> New License Fee Structure, available at: <https://excise.rajasthan.gov.in/Downloads/RSED/PDF/NewLicenseFee.pdf> (last visited on October 12, 2025).

|                                            |                                                                           |                                     |                                                                                                   |                                                                             |
|--------------------------------------------|---------------------------------------------------------------------------|-------------------------------------|---------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
|                                            |                                                                           |                                     |                                                                                                   | Excise Act, 1950”                                                           |
| <b>Madhya Pradesh</b>                      | <i>Madhya Pradesh Excise Act, 1915; Bhang Rules, 1960</i>                 | Retail and Wholesale Permits        | Controlled supply through designated shops and state depots                                       | Penalties under “Section 63 of the MP Excise Act, 1915” for unlicensed sale |
| <b>Uttarakhand</b>                         | <i>Uttarakhand Excise Act, 1910; Uttarakhand Bhang Retail Rules, 2023</i> | Retail Permits                      | Sale limited to district-approved outlets; strict record maintenance                              | Licence suspension and fine under “Section 66 of the Act”                   |
| <b>Himachal Pradesh</b>                    | <i>Himachal Pradesh Excise Act, 2011; Excise Rules, 2012</i>              | Retail and Distribution Licences    | Sale restricted to festival seasons and authorised counters                                       | Penalty under “Section 57 of the HP Excise Act, 2011”                       |
| <b>Bihar</b>                               | <i>Bihar Excise (Prohibition) Act, 2016</i>                               | No specific licence category        | Complete prohibition on sale and consumption                                                      | Punishment under “Section 37 of the Bihar Prohibition Act, 2016”            |
| <b>Odisha</b>                              | <i>Odisha Excise Act, 2008; Odisha Bhang Rules, 1965</i>                  | Retail Licence                      | Retail sale permitted through government-allotted shops                                           | Penalty under “Section 90 of the Odisha Excise Act, 2008”                   |
| <b>Rajasthan (Union Territory – Delhi)</b> | <i>Delhi Excise Act, 2009; Delhi Excise Rules, 2010</i>                   | Nil – no active licensing for bhang | Sale and possession treated as unlawful unless for medical/scientific use under NDPS coordination | Penal provisions under “Section 33 of the Delhi Excise Act, 2009”           |
| <b>Gujarat</b>                             | <i>Bombay Prohibition Act, 1949 (as applicable to Gujarat)</i>            | No licence                          | Absolute prohibition on manufacture, sale, or consumption                                         | Punishment under “Section 66 of the Bombay Prohibition Act, 1949”           |

**Table 1.** State-wise Regulatory Framework for Bhang under Excise Laws in India

## Cultural Context

Bhang has been an integral part of the culture in northern and central India. The product has always been associated with the worship of Shiva, festival celebrations, and everyday life throughout the year. Nevertheless, the cultural acceptance of it comes with certain legal rules. During Holi, people usually partake of thandai and bhang edibles. Presently, this common practice is depicted in the local news as an element of the area's tradition. These reports tell about the legitimate ways of selling and using these products. This explanation reveals how the law separates bhang from other illegal substances. The main aspect is in "Section 2(iii) of the NDPS Act, 1985", which defines charas and ganja and at the same time separates seeds and leaves unless they are attached to the tops. The law therewith forms the background of bhang made of leaves being the most common in the folklore of Holi and used in the vicinity of temples, i.e., the main subjects of discussions and representations of this product in the media. The legislation has acknowledged bhang and permits its use only under certain conditions.

Mahashivratri festival is also an example of how tradition and law go hand in hand. Then it is common to offer and drink thandai containing bhang at Shiva temple, the latter usually happening after midnight. Most of the times, these practices are reported without controversy. Nevertheless, the role of the regulation can still be felt in the operations of the state excise departments. Authorizing and licensing criteria of bhang sellers are present in many areas. E lottery machines employed both in liquor and bhang shops in Uttar Pradesh is one such example, along with rules concerning retail amounts, documentation, and supply methods. In Rajasthan, a tracking system under the excise scheme involving wholesale permits for transfers and retail licenses has been introduced. "The Supply and Sale of Bhang Rules, 1956" are still fully operational in Punjab. The health of the public is another factor that is considered, especially if we look at the statistics of usage. The cannabis survey commissioned by the Indian Government in 2019 revealed that approximately 2.8 percent of the population uses bhang, whereas almost 2 percent use it on a regular basis. These numbers speak of a small user group that may require assistance, thus making bhang a culturally recognized but controlled product within a larger health monitoring system.<sup>7</sup>

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<sup>7</sup> Prabhat Karki, et.al., "A Review of Historical Context and Current Research on Cannabis Use in India", 44 *Indian Journal of Psychological Medicine* 215 (2022).

## Case Law on Bhang

The legislation regarding bhang as per the NDPS Act uses the text to define which derivatives of cannabis are to be held liable from a criminal perspective and, along with that, it also makes it possible to regulate by the state. Under Section 2(iii), “cannabis (hemp)” is specified as charas and ganja. The description limits the term ganja to the flowering or fruiting tops only and also excludes seeds and leaves in the case of those tops. Section 2(iv) mentions the classification of any cannabis plant as a “cannabis plant” and Section 20, apart from defining the punishments, draws a line between cultivation and offences related to ganja or similar forms. Some court decisions have been interpreted as saying that bhang made from leaves only is not categorized as ganja under the NDPS Act. In contrast, they have always held that there exists liability for the cultivation of the plant. This legal differentiation is consistent with State excise laws that provide for and regulate the sale of the product for personal use. The effect of this is that the central narcotics liabilities are determined by the composition of the plant and the nature of the action, while the state laws are in charge of the legal leaf-based products.<sup>8</sup>

## Landmark Judgments

The High Court decisions show that the court, after establishing that the person was carrying bhang, go leaves, works differently with cases than that of ganja. These are cases, however, in which the law prohibits the growing of the cannabis plant under NDPS. The article’s author is first focusing on Section 2(iii)(b). In fact, the mentioned clause defines the category of narcotics, from which the main limitation is the exclusion of seeds and leaves not attached to tops. After that, the article continues with Section 20, which describes the separation between the cultivation of the plant and other offences related to cannabis. The role of forensic science is that of the gatekeeper. Chemical and microscopic tests are used to decide whether the material meets the definition of ganja or whether it should remain as leaves. When the evidence shows bhang or leaves without tops, NDPS prosecutions face challenges. However, when cultivation is proven, courts apply the cultivation clause. Opinions often reference State-level texts. An example is Rajasthan’s NDPS Rules, which are read alongside its Excise Act. This positioning helps clarify bhang’s allowed retail and personal use under excise rules. Together,

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<sup>8</sup> Karnataka High Court Grants Bail; Bhang Not a Prohibitory Drug/Drink Under NDPS, available at: <https://www.scconline.com/blog/post/2022/08/31/karnataka-high-court-grants-bail-bhang-not-prohibitory-drug-drink-under-ndps-not-to-be-included-with-ganja-measuring-commercial-quantity-legalnews-legalresearch-legalupdates/> (last visited on October 09, 2025).

these elements create a dual system focused on the plant's composition and the type of conduct involved.<sup>9</sup>

As in the case of “*Madhukar s/o Pandurang Kanthale v. State of Maharashtra*”<sup>10</sup>, the accused faced trial for possession that included both ganja and bhang. The Chemical Analyser's report and seizure proved parts qualifying as ganja, but the presence of bhang, being leaves, triggered the definitional exclusion in “Section 2(iii)(b)”. The Bombay High Court sustained the conviction relating to ganja and set aside liability to the extent it rested on bhang, reasoning that bhang does not fall within “cannabis (hemp)” under the NDPS Act and its possession is not punishable under “Section 20”. The court also noted supporting Rajasthan decisions and emphasized the statutory carve-out for leaves when not accompanied by tops.<sup>11</sup>

As in the case of “*Arjun Singh v. State of Haryana*”<sup>12</sup>, the appellant had been convicted by the trial court under “Section 20” after recovery described as bhang in substantial quantity during transit. On appeal, the Punjab and Haryana High Court examined the statutory definitions and the material on record identifying the substance as bhang. Treating bhang as excluded from the definition of ganja, the court concluded that possession of bhang did not attract “Section 20” and set aside the conviction and sentence. The judgment has since been repeatedly cited when courts confront prosecutions grounded on leaves without flowering tops, and it is frequently referenced in later explanations of the Act's scheme.<sup>13</sup>

As in the case of “*Sevaram v. State of Rajasthan*”<sup>14</sup>, the prosecution secured a conviction under “Sections 8/20” based on recoveries described and forensically confirmed as bhang. On appeal, the Rajasthan High Court parsed “Section 2(iii)” and the Rajasthan NDPS Rules, including Rule 24, to highlight that seeds and leaves without tops stand outside “cannabis (hemp)” and that bhang was treated distinctively under the State excise framework. Given the absence of evidence of flowering or fruiting tops and no case of cultivation, the court quashed the

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<sup>9</sup> The Narcotic Drugs and Psychotropic Substances Act, 1985, available at: <https://indiankanoon.org/doc/1727139/> (last visited on October 13, 2025).

<sup>10</sup> 2002 SCC OnLine Bom 1271.

<sup>11</sup> Roshan Kumar Mishra v. State, available at: [https://images.assettype.com/barandbench-hindi/2022-08/f303103d-4562-4565-a3b7-59a8756267a3/Roshan\\_Kumar\\_Mishra\\_v\\_State.pdf](https://images.assettype.com/barandbench-hindi/2022-08/f303103d-4562-4565-a3b7-59a8756267a3/Roshan_Kumar_Mishra_v_State.pdf) (last visited on October 13, 2025).

<sup>12</sup> 2005 Cri LJ 253.

<sup>13</sup> Arjun Singh v. State of Haryana, available at: <https://sooperkanoon.com/case/amp/628353/arjun-singh-vs-state-haryana> (last visited on October 13, 2025).

<sup>14</sup> (1993) Cri LJ 2503.

conviction and ordered release. The ruling anchored its analysis in the text of the NDPS Act and the State rules to demarcate leaves from ganja.<sup>15</sup>

As in the case of “*Manjee v. State of Rajasthan*”<sup>16</sup>, the dispute centered on cultivation. The Rajasthan High Court accepted that bhang, as leaves, is excluded from “cannabis (hemp)” for possession offences, yet held that cultivation of any cannabis plant squarely attracts “Section 20(a) read with Section 20(b)(i)”. The court contrasted the Rajasthan Excise Act, 1950 with the NDPS Act and applied constitutional principles on repugnancy to prefer the central enactment on cultivation. The holding clarified that while possession of bhang as leaves does not invite “Section 20” liability for ganja, cultivation remains punishable because the NDPS Act defines “cannabis plant” broadly and regulates cultivation irrespective of the plant’s end-use as bhang.

As in the case of “*Nirmal Chandra Sahoo v. State of Orissa*”<sup>17</sup>, chemical analysis reported that the seized sample consisted of partly powdered cannabis leaves, identified as bhang, with seeds. Evaluating the burden on the prosecution to prove that the seized material was ganja within “Section 2(iii)(b)”, the Orissa High Court found the expert opinion inconsistent with a ganja charge. The court quashed the NDPS proceeding under “Section 20(b)” because the record showed leaves and seeds without flowering or fruiting tops, which the statute excludes from “cannabis (hemp)”. The decision aligned with the developing consensus across High Courts that bhang possession, absent tops or cultivation, does not constitute an NDPS offence.<sup>18</sup>

In the case of “*Roshan Kumar Mishra v. State of Karnataka*”<sup>19</sup>, the prosecution alleged seizure of 29 kilograms of packaged bhang bearing commercial labels along with 400 grams of ganja from the accused in Crime No. 143 of 2022. The petition for regular bail under “Section 439 of the BNSS” was considered against the backdrop of “Section 2(iii) of the NDPS Act, 1985”, with the court reproducing the definition of “cannabis (hemp)” and recording that seeds and leaves, when not accompanied by the tops, stand excluded from “ganja.” The court noted the absence of any scientific material to show that the seized bhang was a drink prepared from charas or ganja within “Section 2(iii)(c) of the NDPS Act”, and stressed that bhang is not described as a prohibited drug or drink in any rule or notification. Treating 400 grams of ganja

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<sup>15</sup> *Sevaram v. State of Rajasthan*, available at: <https://www.courtktuchery.com/judgements/210558/sevaram-vs-state-of-rajasthan/> (last visited on October 13, 2025).

<sup>16</sup> 1996 Cri LJ 3787.

<sup>17</sup> 1996 Cri LJ 1902.

<sup>18</sup> *Nirmal Chandra Sahoo v. State of Orissa*, available at: <https://www.courtktuchery.com/judgements/104572/nirmal-chandra-sahoo-vs-state-of-orissa/> (last visited on October 13, 2025).

<sup>19</sup> 2022 Latest Caselaw 11548 Kant.

as below commercial quantity and declining to club bhang for quantity, the court granted bail while the FSL report was awaited.<sup>20</sup>

In the case of “*Anav Jain v. State of Haryana*”<sup>21</sup>, the petitioner, a promoter of a licensed Ayurvedic manufacturing venture, faced an FIR under the NDPS regime despite holding permissions and supply chains for hemp leaves to produce formulations, including “bhang ka ghan.” The record showed applications and endorsements from AYUSH authorities and recitals that the material was hemp leaves used as medicinal inputs. Examining “Section 2(iii) of the NDPS Act, 1985”, the court reaffirmed earlier High Court positions that bhang does not fall within “cannabis (hemp)” and that leaves, when not accompanied by flowering or fruiting tops, are excluded from “ganja.” The court noted mistakes in the procedures for using NDPS provisions. This includes looking at the complainant’s role and ability in relation to the legal powers. Holding that NDPS was not attracted unless an FSL report established preparation from charas or ganja, the court quashed the FIR and related proceedings, while clarifying that collateral inquiries under other enactments could continue.<sup>22</sup>

In the case of “*Dayaram Singh v. State of Madhya Pradesh*”<sup>23</sup>, the petitioners invoked “Section 482 of the BNSS” to assail an excise-registered FIR alleging recovery of about 2.5 kilograms of ganja. The court categorized “Section 2(iii) of the NDPS Act, 1985” and pointed out the legal difference between cannabis plants and “cannabis (hemp).” It further confirmed that from the point of view of the law, the seeds and leaves not accompanied by tops are excluded from the definition of “ganja.” The court while going through the FSL report did not find the amount of tetrahydrocannabinol to be mentioned, and the method of differentiation among bhang, ganja, and charas was also absent. It was observed that due to such omission, the characterization of the seized material as “ganja” could not be considered within the four corners of the definition. Without dependable forensic identification, proceeding with the case was considered to be of no use. The FIR and allied proceedings were quashed. It was also

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<sup>20</sup> Roshan Kumar Mishra vs The State of Karnataka, 2022 Latest Caselaw 11548 Kant, available at: <https://www.latestlaws.com/judgements/karnataka-high-court/2022/august/2022-latest-caselaw-11548-kant/> (last visited on October 13, 2025).

<sup>21</sup> 2022 Latest Caselaw 15425 P&H.

<sup>22</sup> Anav Jain vs State of Haryana, 2022 Latest Caselaw 15425 P&H, available at: <https://www.latestlaws.com/judgements/punjab-and-haryana-high-court/2022/december/2022-latest-caselaw-15425-p-h> (last visited on October 13, 2025).

<sup>23</sup> MCRC No. 7965 of 2011, order dated 04-03-2024 (MP HC).

indicated that there is no question of bhang being considered “cannabis (hemp)” as per the definition in “Section 2(iii)” of the NDPS Act.<sup>24</sup>

### State Wise Regulation and Practice

The baseline is defined by “Section 2(iii) of the Narcotic Drugs and Psychotropic Substances Act, 1985.” This section identifies “cannabis (hemp)” as including charas and ganja. It specifies ganja as the flowering or fruiting tops, “excluding the seeds and leaves when not accompanied by the tops.” Because of this definition, bhang, which is made from leaves, falls outside the NDPS scope. As a result, daily control is managed by State excise or prohibition laws. Central criminal restrictions apply when flowering tops or resin are involved. Meanwhile, excise rules regulate retail sales, quantities, and licensing procedures for bhang. State practice varies: some publish dedicated bhang rules and forms; others fold bhang within general excise policy documents or wider prohibition regimes. Across jurisdictions, a recurring regulatory motif appears: authorized off-premises sale through licensed outlets, quantitative caps at the point of sale, and district-level discretion over shop locations, all while the NDPS definition continues to anchor enforcement boundaries.<sup>25</sup>

### Uttar Pradesh

Uttar Pradesh employs a dedicated framework titled “Uttar Pradesh Excise (Settlement of Licenses for Retail Sale of Bhang) Rules” as amended in 2025, which specifies that the license for retail sale of bhang for consumption outside the premises shall be in “Form H.M.-1”, with the Collector acting as the “Licensing authority.” The rules tie license and consideration fees to “Section 24 of the United Provinces Excise Act, 1910”, fix the number and location of shops through the licensing authority, and prescribe electronic payment and geo-tagging of outlets. Substantive retail controls include a clear limit that a licensee may not sell more than 120 grams of bhang to any person. Along with this, it is necessary to keep track of daily sales and sell strictly for off premises use. As per the given instructions, a new supply will be made from bonded warehouses to fulfill the orders in the specified formats, while the settlement will be

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<sup>24</sup> Dayaram Singh v. The State of Madhya Pradesh, available at: <https://www.casemine.com/judgement/in/660ead4bd6e8a73574483442> (last visited on October 13, 2025).

<sup>25</sup> Narcotic Drugs and Psychotropic Substances Act, 1985, available at: <https://www.indiacode.nic.in/bitstream/123456789/18974/1/narcotic-drugs-and-psychotropic-substances-act-1985.pdf> (last visited on October 13, 2025).

done via e tender, e lottery, or renewal.<sup>26</sup>

## Madhya Pradesh

The State of Madhya Pradesh adheres to the “Madhya Pradesh Bhang Rules, 1960” which are a part of the State Excise Act for the handling of the preparation, storage, and sale of bhang products. The rules mention several new products coming from the same category as bhang such as “Majum” and “Manohar Gutka” that are the ones which are made by bhang, that clearly states that the excise oversight is not only for leaf paste. Every year, retail plans are communicated by means of policy notices and district tenders. There are official district websites where the tenders for shops that want to obtain bhang, ghota and bhang sweet sales licenses have been published. This is indicative of a licensing process that is well organized and done in a timely manner at the Collectorate. These agreements are normally done in a way that guarantees the highest priority for renewals; if it is not possible, they perform the tenders as per the terms mentioned in the published documents. This method also allows for certain quotas and fees to be determined depending upon the particular location. The terminologies used in the 1960 Rules and the ongoing administrative notices indicate that there is a retail environment for sweet bhang products, which is well established and is under the control of excise regulations rather than NDPS prohibitions because of the plant-based nature of bhang.<sup>27</sup>

## Odisha

Odisha’s excise framework explicitly, in its yearly “Excise Policy”, mentions bhang. The policy provides a detailed listing of bhang along with tari and pochwai for licensing and fee purposes. Currently, the policy recommends an application fee of ₹2,000 for both new and renewed Bhang, Tari, and Pochwai shops. This indicates a low initial fee structure but it is heavily dependent on district level activities and renewals for further distribution. Besides, the policy also compiles various other terms and conditions for the different categories in the retail trade regarding licenses and renewals. In fact, it practically functions as the primary instrument of licenses issue, their renewals, and the setting of compliance expectations for bhang outlets. Moreover, with bhang being at the same chapter level as other traditional intoxicants, the state

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<sup>26</sup> Bhaang Retail English, available at: [https://www.indiacode.nic.in/ViewFileUploaded?file=bhaang\\_retail\\_english.pdf&path=AC\\_UP\\_88\\_459\\_00001\\_00001\\_1597737627591%2Frulesindividualfile%2F](https://www.indiacode.nic.in/ViewFileUploaded?file=bhaang_retail_english.pdf&path=AC_UP_88_459_00001_00001_1597737627591%2Frulesindividualfile%2F) (last visited on October 13, 2025).

<sup>27</sup> Madhya Pradesh Bhang Rules, 1960, available at: <https://www.legitquest.com/act/madhya-pradesh-bhang-rules-1960/BBCB> (last visited on October 13, 2025).

of Odisha is very clear that the trade in bhang is under excise laws. The NDPS demarcation is relevant only when flowering tops or resin are introduced in the market. The unchanging fee schedule over the years is a good example of a stable policy towards the establishment of bhang shops as a separate retail segment with licenses.<sup>28</sup>

## Gujarat

In Gujarat, the Prohibition Act, 1949, is the law that governs the use of intoxicating substances. Intoxicating drugs and hemp were the main substances under a strict prohibition system in which permits were indispensable for possession and use, as per this law. In February 2017, the State removed bhang from the list of “intoxicating drugs” under “Section 23” of the Prohibition Act and thus publicly declared an exception for it. The State interpreted this amendment as a response to the wrong usage of prohibition rules, and local media reported the State’s explanation and the reasons behind it. The original and amended licensing and exceptions in the Act still lead the way, while the main texts of the State’s administration are accessible on the monitoring pages. Subsequent policy debates were about the possibility of a change that would be limited to the specific areas of relaxations while the overall prohibition framework was maintained throughout the State. From a practical perspective, the removal of the ban on bhang is still accompanied by the administrative control of sales and cultural festival settings with which there is an NDPS restriction on ganja or resin notwithstanding any State exemption.<sup>29</sup>

## Haryana and Punjab

Haryana’s excise policy functions as a comprehensive annual instrument for licenses, fees, tender modalities, and compliance, without a bespoke bhang chapter; enforcement perception is nonetheless shaped by the NDPS definition in “Section 2(iii)”, which excludes leaves and places bhang outside the central “cannabis” definition. Punjab, by contrast, carries a historic ruleset titled the “Punjab Supply and Sale of Bhang Rules, 1956”, outlining licensed wholesale and retail structures and linking sale to duties and conditions under “Sections 31 and 32” of the Punjab Excise framework, evidence of a legacy system that has long recognized bhang as an excise subject. Read together, these paths show that where explicit bhang rules exist, retail is

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<sup>28</sup> Excise Policy 2024–25, available at: <https://osbc.co.in/NewIncludes/UploadFiles/Excise-Policy-2024-25.pdf> (last visited on October 13, 2025).

<sup>29</sup> Gujarat Further Tightens Prohibition, available at: <https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-further-tightens-prohibition/articleshow/57302748.cms> (last visited on October 13, 2025).

formalized through dedicated forms and duty conditions; where they do not, general excise policy fills the field and licensing practice is read in harmony with the NDPS definitional boundary.<sup>30</sup>

| State                | Governing statute or rules                                                                                                                                                                   | Retail licensing modality                                                                                                                                          | Off-premises consumption only                                                  | Permit requirement for personal possession                                                                                                                    | Notable recent update                                                                                  |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| <b>Uttar Pradesh</b> | Uttar Pradesh Excise (Settlement of Licences for Retail Sale of Bhang) Rules, 2025; licence in Form H.M.-1.” The Collector is the licensing authority; shops to be geo-tagged. <sup>31</sup> | Settlement by renewal, e-lottery, or e-tender; licence and security fee through e-payment; supply from bonded warehouses against prescribed indents. <sup>32</sup> | Yes; retail sale specified for consumption outside the premises. <sup>33</sup> | No specific excise permit; leaves are outside cannabis (hemp) under NDPS, so possession of bhang is generally outside central narcotic control. <sup>34</sup> | Consolidated Rules Issued with Digital Compliance Features and Quantitative Caps at Sale. (India Code) |

<sup>30</sup> Haryana Excise Policy 2024–25, available at: [https://haryanatax.gov.in/HEX/DownloadPDF?formName=%2FExcisePolicy2024\\_25%2FExcise\\_Policy\\_2024\\_25.pdf](https://haryanatax.gov.in/HEX/DownloadPDF?formName=%2FExcisePolicy2024_25%2FExcise_Policy_2024_25.pdf) (last visited on October 13, 2025).

<sup>31</sup> Bhaang Retail English, available at: [https://www.indiacode.nic.in/ViewFileUploaded?file=bhaang\\_retail\\_english.pdf&path=AC\\_UP\\_88\\_459\\_00001\\_00001\\_1597737627591%2Frulesindividualfile%2F](https://www.indiacode.nic.in/ViewFileUploaded?file=bhaang_retail_english.pdf&path=AC_UP_88_459_00001_00001_1597737627591%2Frulesindividualfile%2F) (last visited on October 13, 2025).

<sup>32</sup> Bhaang Retail English, available at: [https://www.indiacode.nic.in/ViewFileUploaded?file=bhaang\\_retail\\_english.pdf&path=AC\\_UP\\_88\\_459\\_00001\\_00001\\_1597737627591%2Frulesindividualfile%2F](https://www.indiacode.nic.in/ViewFileUploaded?file=bhaang_retail_english.pdf&path=AC_UP_88_459_00001_00001_1597737627591%2Frulesindividualfile%2F) (last visited on October 13, 2025).

<sup>33</sup> Bhaang Retail English, available at: [https://www.indiacode.nic.in/ViewFileUploaded?file=bhaang\\_retail\\_english.pdf&path=AC\\_UP\\_88\\_459\\_00001\\_00001\\_1597737627591%2Frulesindividualfile%2F](https://www.indiacode.nic.in/ViewFileUploaded?file=bhaang_retail_english.pdf&path=AC_UP_88_459_00001_00001_1597737627591%2Frulesindividualfile%2F) (last visited on October 13, 2025).

<sup>34</sup> Yogendra P. Balhara, Sandeep Mathur, "Bhang - Beyond the Purview of the Narcotic Drugs and Psychotropic Substances Act", 31 *Lung India* 431 (2014).

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|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| <b>Madhya Pradesh</b> | Madhya Pradesh Bhang Rules, 1960 under the State Excise framework; rules recognise bhang alongside defined preparations. <sup>35</sup> | Annual shop arrangements commonly settled at district level; retail and preparation supervised under the 1960 Rules. <sup>36</sup> | Practice indicates off-premises retail through licensed vendors under excise supervision. <sup>37</sup> | No specific excise permit; possession of bhang as leaves remains outside NDPS definition. <sup>38</sup> | Periodic district notices and tenders' structure yearly retail cycles. <sup>39</sup>                   |
| <b>Odisha</b>         | Annual Excise Policy recognises bhang for licensing alongside tari and pochwai; application fee stated explicitly. <sup>40</sup>       | Licensing and renewal routed through district procedures with fee schedules fixed in the Policy.                                   | Retail vendors operate as licensed outlets; consumption at premises not contemplated for bhang shops.   | No specific excise permit; possession of bhang as leaves outside NDPS scope. <sup>41</sup>              | 2024–25 Policy Maintains ₹2,000 Application Fee for New/Renewal of Bhang Shops. (Excise.odisha.gov.in) |

<sup>35</sup> Madhya Pradesh Bhang Rules, 1960, available at: <https://www.legitquest.com/act/madhya-pradesh-bhang-rules-1960/BBCB> (last visited on October 13, 2025).

<sup>36</sup> Madhya Pradesh Bhang Rules, 1960, available at: <https://www.legitquest.com/act/madhya-pradesh-bhang-rules-1960/BBCB> (last visited on October 13, 2025).

<sup>37</sup> Madhya Pradesh Bhang Rules, 1960, available at: <https://www.legitquest.com/act/madhya-pradesh-bhang-rules-1960/BBCB> (last visited on October 13, 2025).

<sup>38</sup> Yogendra P. Balhara, Sandeep Mathur, "Bhang - Beyond the Purview of the Narcotic Drugs and Psychotropic Substances Act", 31 *Lung India* 431 (2014).

<sup>39</sup> Madhya Pradesh Bhang Rules, 1960, available at: <https://www.legitquest.com/act/madhya-pradesh-bhang-rules-1960/BBCB> (last visited on October 13, 2025).

<sup>40</sup> Excise Policy 2023–24 (2), available at: <https://excise.odisha.gov.in/sites/default/files/2023-03/Excise Policy 2023-24 %282%29.pdf> (last visited on October 13, 2025).

<sup>41</sup> Yogendra P. Balhara, Sandeep Mathur, "Bhang - Beyond the Purview of the Narcotic Drugs and Psychotropic Substances Act", 31 *Lung India* 431 (2014).

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|----------------|------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>Gujarat</b> | Gujarat Prohibition Act, 1949; State exempted bhang from intoxicating drugs” in 2017, within the prohibition architecture. <sup>42</sup> | Sale and any administrative control align with prohibition law and subsequent notifications ; bhang exemption coexists with broader prohibition controls. <sup>43</sup> | Off-premises sale points may be administratively designated; prohibition regime otherwise applies to liquor and other intoxicants. <sup>44</sup> | Exempted from the intoxicating drugs list; personal possession of bhang does not require a prohibition permit, subject to any local administrative conditions. <sup>45</sup> | Exemption Recorded; Later Prohibition Amendments Continue for Liquor While Bhang Remains Exempt. (the Times of India) |
| <b>Haryana</b> | Haryana Excise Act, 1914 with operative Excise Policy 2025–27”; no bespoke bhang chapter, regulation through general                     | Licensing, fees, and tenders conducted under the state policy; enforcement led by Excise and Taxation Department. <sup>47</sup>                                         | Licensed retail norms focus on alcohol categories; bhang retail, where allowed, would follow excise licensing practice. <sup>48</sup>            | No specific excise permit scheme identified; NDPS exclusion for leaves frames possession outside narcotic control. <sup>49</sup>                                             | 2025–27 Policy Reforms on Security Deposits and E-Tendering Set the General Retail Context. (Haryanatax.gov.in )      |

<sup>42</sup> Gujarat Further Tightens Prohibition, available at: <https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-further-tightens-prohibition/articleshow/57302748.cms> (last visited on October 13, 2025).

<sup>43</sup> Gujarat Further Tightens Prohibition, available at: <https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-further-tightens-prohibition/articleshow/57302748.cms> (last visited on October 13, 2025).

<sup>44</sup> Gujarat Further Tightens Prohibition, available at: <https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-further-tightens-prohibition/articleshow/57302748.cms> (last visited on October 13, 2025).

<sup>45</sup> Gujarat Further Tightens Prohibition, available at: <https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-further-tightens-prohibition/articleshow/57302748.cms> (last visited on October 13, 2025).

<sup>47</sup> Haryana Excise Policy 2025–27, available at: [https://haryanatax.gov.in/HEX/DownloadPDF?formName=%2FExcisePolicy2025\\_27%2FExcise\\_Policy\\_2025\\_27.pdf](https://haryanatax.gov.in/HEX/DownloadPDF?formName=%2FExcisePolicy2025_27%2FExcise_Policy_2025_27.pdf) (last visited on October 13, 2025).

<sup>48</sup> Haryana Excise Policy 2025–27, available at: [https://haryanatax.gov.in/HEX/DownloadPDF?formName=%2FExcisePolicy2025\\_27%2FExcise\\_Policy\\_2025\\_27.pdf](https://haryanatax.gov.in/HEX/DownloadPDF?formName=%2FExcisePolicy2025_27%2FExcise_Policy_2025_27.pdf) (last visited on October 13, 2025).

<sup>49</sup> Yogendra P. Balhara, Sandeep Mathur, "Bhang - Beyond the Purview of the Narcotic Drugs and Psychotropic Substances Act", 31 *Lung India* 431 (2014).

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|---------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
|               | excise<br>instrument<br>s. <sup>46</sup>                                                                                                    |                                                                                                                                             |                                                                                                                         |                                                                                                              |                                                                                                              |
| <b>Punjab</b> | <b>Punjab Supply and Sale of Bhang Rules, 1956; wholesale Form H.26 and retail Form H.28; fees typically fixed by auction.<sup>50</sup></b> | Wholesale and retail licences granted by the Collector per the Rules; auction-based settlement used for fees and shop grants. <sup>51</sup> | Retail vends structured as licensed outlets; off-premises consumption reflected in historic retail model. <sup>52</sup> | No specific excise permit for personal possession; NDPS exclusion for leaves applies to bhang. <sup>53</sup> | Legacy rules remain the operative framework for bhang licencing within Punjab's excise regime. <sup>54</sup> |

**Table 2:** Comparative Overview of State Excise Frameworks Governing Retail Licensing, Possession, and Recent Regulatory Developments for Bhang in Selected Indian States (2024–2025)

### Enforcement, Evidence, and Forensics

The operational logic of NDPS prosecutions makes laboratory discrimination between bhang and ganja the first and decisive step. Under Section 2(iii) NDPS, “cannabis (hemp)” is confined to charas and the flowering or fruiting tops (ganja); leaves and seeds are outside the definition

<sup>46</sup> Haryana Excise Policy 2025–27, available at: [https://haryanatax.gov.in/HEX/DownloadPDF?formName=%2FExcisePolicy2025\\_27%2FExcise\\_Policy\\_2025\\_27.pdf](https://haryanatax.gov.in/HEX/DownloadPDF?formName=%2FExcisePolicy2025_27%2FExcise_Policy_2025_27.pdf) (last visited on October 13, 2025).

<sup>50</sup> Punjab Supply and Sale of Bhang Rules, 1956, available at: [https://upload.indiacode.nic.in/showfile?actid=AC\\_PB\\_82\\_952\\_00003\\_00003\\_1580212629957&filename=punjab\\_supply\\_and\\_sale\\_of\\_bhang\\_rules%2C\\_1956.pdf&type=rule](https://upload.indiacode.nic.in/showfile?actid=AC_PB_82_952_00003_00003_1580212629957&filename=punjab_supply_and_sale_of_bhang_rules%2C_1956.pdf&type=rule) (last visited on October 13, 2025).

<sup>51</sup> Punjab Supply and Sale of Bhang Rules, 1956, available at: [https://upload.indiacode.nic.in/showfile?actid=AC\\_PB\\_82\\_952\\_00003\\_00003\\_1580212629957&filename=punjab\\_supply\\_and\\_sale\\_of\\_bhang\\_rules%2C\\_1956.pdf&type=rule](https://upload.indiacode.nic.in/showfile?actid=AC_PB_82_952_00003_00003_1580212629957&filename=punjab_supply_and_sale_of_bhang_rules%2C_1956.pdf&type=rule) (last visited on October 13, 2025).

<sup>52</sup> Punjab Supply and Sale of Bhang Rules, 1956, available at: [https://upload.indiacode.nic.in/showfile?actid=AC\\_PB\\_82\\_952\\_00003\\_00003\\_1580212629957&filename=punjab\\_supply\\_and\\_sale\\_of\\_bhang\\_rules%2C\\_1956.pdf&type=rule](https://upload.indiacode.nic.in/showfile?actid=AC_PB_82_952_00003_00003_1580212629957&filename=punjab_supply_and_sale_of_bhang_rules%2C_1956.pdf&type=rule) (last visited on October 13, 2025).

<sup>53</sup> Yogendra P. Balhara, Sandeep Mathur, "Bhang - Beyond the Purview of the Narcotic Drugs and Psychotropic Substances Act", 31 *Lung India* 431 (2014).

<sup>54</sup> Punjab Supply and Sale of Bhang Rules, 1956, available at: [https://upload.indiacode.nic.in/showfile?actid=AC\\_PB\\_82\\_952\\_00003\\_00003\\_1580212629957&filename=punjab\\_supply\\_and\\_sale\\_of\\_bhang\\_rules%2C\\_1956.pdf&type=rule](https://upload.indiacode.nic.in/showfile?actid=AC_PB_82_952_00003_00003_1580212629957&filename=punjab_supply_and_sale_of_bhang_rules%2C_1956.pdf&type=rule) (last visited on October 13, 2025).

when not accompanied by tops, which is why bhang falls beyond penal reach absent tops.<sup>55</sup> Hence, criminal liability turns on whether FSL analysis verifies the presence of tops or resinous material as opposed to only leaves and seeds.

For this purpose, FSLs employ structured protocols. Macroscopy records the presence of inflorescences and bracts; microscopy targets capitate glandular trichomes that biosynthesize cannabinoids on bract tissues; and chemical assays corroborate THC-bearing resin. These steps furnish the expert's opinion on botanical part identity and enable categorical separation of bhang-type material from ganja or charas.<sup>56</sup> Section 52A NDPS and the implementing notifications/standing orders regulate inventory, drawing of representative samples before a Magistrate, sealing, and documentation. Courts emphasize that these safeguards are mandatory in substance and that, so far as possible, sampling should occur in the accused's presence to ensure evidentiary fairness.<sup>57</sup>

Once an exhibit is certified as "ganja" under Section 2(iii)(b), the seizure weight is measured against the Central Government's notification fixing one kilogram as "small" and twenty kilograms as "commercial" quantity. This statutory classification fixes the sentencing framework prescribed under Section 20 of the NDPS Act and, where the seized substance qualifies as a commercial quantity, automatically attracts the restrictive bail regime mandated by Section 37.<sup>58</sup> Where the FSL report records leaves and seeds unaccompanied by tops, the sample falls outside Section 2(iii)'s statutory definition, prompting courts to extend bail and to annul Section 20 counts premised on "ganja."<sup>59</sup> The evidentiary admission and evaluation of FSL conclusions is grounded in Section 329 BNSS (use of government experts' reports) and Section 39 of the Bharatiya Sakshya Adhiniyam (relevance of expert opinion).<sup>60</sup> Precision in

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<sup>55</sup> NDPS Act, Section 2, available at: [https://www.indiacode.nic.in/show-data?actid=AC\\_CEN\\_2\\_2\\_00029\\_198561\\_1517807326222&orderno=2&sectionId=25100&sectionno=2](https://www.indiacode.nic.in/show-data?actid=AC_CEN_2_2_00029_198561_1517807326222&orderno=2&sectionId=25100&sectionno=2) (last visited on October 13, 2025).

<sup>56</sup> Narcotics Manual, available at: [https://dfs.nic.in/pdfs/narcotics manual.pdf](https://dfs.nic.in/pdfs/narcotics%20manual.pdf) (last visited on October 13, 2025).

<sup>57</sup> Disposal of Seized Drugs Notification, available at: [https://narcoticsindia.nic.in/Notifications/Disposal of Seized drugs notification.pdf](https://narcoticsindia.nic.in/Notifications/Disposal%20of%20Seized%20drugs%20notification.pdf) (last visited on October 13, 2025).

<sup>58</sup> NDPS Amendment, 2001, available at: <https://narcoticsindia.nic.in/legislation/ndps-amendment-2001.pdf> (last visited on October 13, 2025).

<sup>59</sup> Ganja Under Section 2 NDPS Act Covers Flowering and Fruiting Tops of Cannabis Plant; Excludes Seeds and Leaves, available at: <https://www.scconline.com/blog/post/2024/10/07/ganja-u-s2-ndps-act-covers-flowering-fruited-tops-cannabis-plant-excludes-seeds-leaves-bomhc/> (last visited on October 13, 2025).

<sup>60</sup> BNSS Section 329 — Reports of Certain Government Scientific Experts, available at: <https://www.latestlaws.com/bare-acts/central-acts-rules/bnss-section-329-reports-of-certain-government-scientific-experts/> (last visited on October 13, 2025).

describing flowering bracts, trichome density, and resin tests, together with documented Section 52A compliance, ultimately dictates charge-framing and the applicable bail threshold.<sup>61</sup>

## Conclusion

Indian narcotics law draws a deliberate boundary for cannabis by textually excluding leaves and seeds, when not accompanied by the flowering or fruiting tops, from “cannabis (hemp)” under Section 2(iii) NDPS. That definitional line leaves scope for state regulation of bhang without weakening the Union’s penal control over ganja (tops) and charas (resin). Correct classification at seizure therefore turns on plant-part identification and documented sampling. Section 52A requires prompt magistrate-supervised inventories, photographs, and representative samples; these certified records constitute primary evidence and guard against mislabeling leaves as narcotic tops. Recent Supreme Court reiterations of *Union of India v. Mohanlal*<sup>62</sup> confirm that drawing samples in the Magistrate’s presence and timely Section 52A applications are not optional procedural embellishments but central to evidentiary integrity.

Quantity thresholds notified by the Central Government apply only where the seizure legally qualifies as narcotic cannabis; the bail embargo in Section 37 attaches to offences under Sections 19, 24, 27A and to cases involving commercial quantity, subject to the statute’s “twin conditions.” Courts have also clarified that where only small quantity is involved, Section 37’s rigor may not be attracted. This preserves a two-track regime: central penalties for tops and resin; state excise control for leaves-based bhang.

Federal design supports this division. Section 10 NDPS authorizes states to “permit, control and regulate”, but expressly “subject to” Section 8’s prohibitions; any state rule drifting into narcotic parts fails under Article 254’s repugnancy test. Gujarat’s 21 February 2017 decision to remove bhang from the list of “intoxicating drugs” under its Prohibition Act exemplifies a policy choice within state competence that leaves NDPS coverage of ganja/charas untouched.

Procedurally, the BNSS now permits courts to receive reports of specified Government scientific experts under Section 329, reducing delay in part-identification and quantitation. Substantive evaluation of such opinions proceeds under the Bharatiya Sakshya Adhiniyam,

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<sup>61</sup> Tanney CAS, R. Backer, et.al., “Cannabis Glandular Trichomes: A Cellular Metabolite Factory”, 12 *Frontiers in Plant Science* 86 (2021).

<sup>62</sup> (2016) 3 SCC 379.

2023, Section 39, which codifies the relevance of expert testimony. Together with Section 52A workflows, these provisions enable an orderly chain from seizure to trial while preserving defense scrutiny of weak science.

Population data counsel calibrated not punitive management of bhang. National survey findings (MSJE/AIIMS, 2019) distinguish between bhang use and ganja/charas, showing far greater prevalence of bhang while indicating higher harmful use among ganja/charas users. States can deploy excise tools age gates, off-premises sales, batch-linked supply, tamper-evident packaging without changing NDPS definitions. Where analysis shows tops/resin, the notified small and commercial quantities and Section 37 apply; where laboratory results confirm leaves/seeds only, NDPS counts should fall away and any response should shift to excise or public-health instruments.

### **Suggestions**

One of the most significant benefits that a set of unambiguous, evidence-oriented proposals has is the power to enhance the equity of regulation and to prevent the incorrect classification or the wrongful use of cannabis-related substances. These proposals primarily focus on the standardization of procedures, the implementation of control systems based on real data, and the openness of the executive branch to the public. The ultimate objective is to create the instruments that not only would secure the users who are operating within the law but also make it possible for regulatory bodies to maintain a clear record of who is responsible, thus lessening the chances of illegal distribution, manipulation, or mistakes. Every single point enumerated beneath serves as an introduction to feasible protections which could be combined with the current administrative and legal system without the necessity of a deep structural change or legislative reform.

- One of the methods that could be used to reduce wrongful framing of leaves as ganja is to enact a uniform evidentiary guideline for cannabis part identification that every state laboratory must adopt and publish. The guidelines should explicitly require the morphological indicators to be recorded such as bract shape, seed presence, and trichome density. Along with this, a chemical screening should be done to report the qualitative resin presence and not only the generic cannabinoids. The analysts should be asked to provide their opinion about whether the flowering or fruiting tops were present and also attach the images that they have annotated. There should be a checklist

provided that prosecutors must file with the charge sheet which confirms that the analyst has addressed every indicator. In case such elements are missing in the filings, they should be rejected to reduce wrongful framing of leaves as ganja.

- Another measure that could be taken to stop the diversion of products to illegal market is the creation of a closed loop vendor network in which every licensed outlet is linked to a specific bonded warehouse and a specific set of transport contractors. Purchases made ad hoc and walk in supplies should be prohibited. Electronic indents must be used and these indents should list batch numbers and seal codes and need the approval of the district excise office before dispatch. When an outlet changes vendor links, a cooling period along with a reconciliation exercise should be enforced. This linkage graph can be published on the state portal and, therefore, auditors as well as civil society can access it to identify the unusual patterns. The structure described here helps in preventing clandestine diversion and the responsibility can still be traced.
- Introduce a risk scoring engine that assigns dynamic inspection frequencies to outlets using objective inputs. Use factors such as variance between sales and expected festival season uplift, history of minor breaches, complaints, and random test outcomes. Set thresholds that trigger surprise sampling or license review. Share the score privately with licensees to encourage remediation and publicize aggregated district level risk profiles. Ensure that high scores carry tangible consequences such as temporary quantity caps or requirement of additional staff training until the score improves.
- Mandate that every retail transaction produces a printed or digital receipt that summarizes product name, batch number, weight sold, running daily cap, and an advisory against admixture. Require outlets to keep an anonymized ledger of receipts that can be matched against inventory. Enforce a rule that outlets must refuse a sale when the daily outlet ceiling is reached and that the system must lock further billing. Allow auditors to reconstruct any day by sampling receipts and matching them with warehouse withdrawal records and CCTV time stamps to check for phantom entries.
- Require excise departments to run annual tenders with transparent scoring that includes compliance history, shop location suitability, data system readiness, and staffing plans for age gate and packaging requirements. Publish all bids, scores, and reasons for selection and rejection. Prohibit single bidder awards unless the department publishes

a reasoned note explaining market failure and countermeasures for the next cycle. Allow citizen observers from accredited local bodies to attend draw events and report irregularities. This reduces rent seeking and improves legitimacy of shop grants.

- Have a panel of scientists from the field of forensics who are retired and can have an almost immediate review of the lab report while it being a court of law. Additionally, the defendants should be allowed to ask for a re-analysis within a certain time frame and a second laboratory entirely at random be chosen. A condition should be given to the board that it publishes what it has found in an unidentifiable form and it focuses on the errors of the lab such as incorrect identification, wrong sampling. Firstly, feed these insights back into laboratory training and standing orders. Secondly, create an obligation for trial courts to consider these observations when weight of expert evidence during charge and bail stages is evaluated.
- Advanced festival period protocols that clearly outline how things are to be dealt with should be the festival period protocols that include festival days Holi and Mahashivratri. These should also, in a controlled manner, increase staff at bonded warehouses, lengthen the dispatch hours, and raising daily outlet ceilings in order not to have stockouts that lead to the production of illicit mixtures. A rule should be made by which the pre declaration of the extended hours' outlets and the deployment of the crowd control ropes and queuing management is done. On the other hand, mobile testing teams can be placed in the areas where there is a lot of demand to collect samples from the counter stock. Then, by comparing the actual sales with the expected ones, anomalies can be found that give inspectors a reason to carry out targeted checks.
- It should be obligatory for excise and health departments to give their consent on the labels of edible preparations that are recognized by the state's rules. In other words, a limit should be set for the amount of leaf in a unit of the product, the size of the serving should be defined and a nutrition panel similar to the preparation type should be a requirement. At the same time, there could be a ban imposed on copycat branding imitating alcohol or tobacco products so that there may be no occurrence of cross-market cues. The company that produces the products must include in the labels the scannable code which after scanning is taken to the public page holding the batch test results and license details. In case the code is not present or there is a mismatch,

immediate punishment should be carried out in the form of the stock being seized as well as the license being suspended until further investigation is conducted.

- Build a continuous training track for inspectors, excise clerks, and retail staff with modular content on law, forensics, digital systems, and community engagement. Record completion in a state credential that expires annually. Tie inspector postings and promotions to training completion and field performance on documented metrics such as inspection quality and resolution times. Publish a curriculum and a calendar in advance and allow external experts to teach specialized modules. Maintain a repository of anonymized field case studies that demonstrate best practice and common pitfalls.
- Commission an independent annual audit conducted by a state university or a public research body to evaluate the bhang regulatory system. Provide full data access subject to privacy safe harbors. Require the audit to assess pricing trends, compliance rates, lab turnaround times, seizure outcomes, and consumer awareness. Publish the report with a departmental response that lists corrective actions with timelines. Table the report in the state legislature to create structured accountability. Use the findings to refine retail caps, adjust inspection intensity, and update laboratory protocols.

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