IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 19859 of 2026

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FAIZAHMED HAFIZUDDIN SHEIKH

Versus

STATE OF GUJARAT

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Appearance:
MR M.S. KAZI(13607) for the Applicant(s) No. 1
MR. YUVRAJ BRAHMBHATT, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 16/10/2026

ORDER

[1.0] **RULE.** Learned APP waives service of rule for the respondent-State.

[2.0] The present application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with **FIR being C.R. No.11216006240060 of 2024** registered with **Chiloda Police Station, District-Gandhinagar,** for the offence under Sections 8(C), 20(b)(ii)(C) and 29 of NDPS Act.

[3.0] Learned advocate appearing on behalf of the applicant submits that applicant is innocent and has been falsely implicated in the offence. Investigation is over and chargesheet has been filed. It is submitted that, nothing is recovered from the conscious possession of the applicant He therefore submits that, considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable

conditions.

[4.0] Learned APP appearing on behalf of the respondent-State has opposed the present application and submitted that, the applicant is facing serious charges and involved in trafficking of narcotic drugs. Therefore, it is very much establishes that the applicant is involved in the offence and if he is granted bail, possibility cannot be ruled out to indulge himself in such type of offence again. Considering the gravity of offence, application does not deserve any consideration.

[5.0] While granting bail, the Court has to consider the involvement of the accused in the alleged offence, the jurisdiction to grant bail has to be exercised on the basis of the well settled principles having regard to the facts and circumstances of each case and the following factors are to be taken into consideration while considering an application for bail: (i) the nature of accusation and the severity of the punishment and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses and threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations are required to be considered.

[6.0] I have heard the learned advocates appearing on behalf of the respective parties and perused the investigation papers. Following aspects have been considered:

(1) Investigation is over and chargesheet has been filed;

(2) Applicant is behind the bar since 28.01.2024;

(3) There is nothing to be recovered or discovered from the applicant;

(4) No past antecedent.

(5) As per the case, alleged present applicant was found along with alleged contraband, traveling in one Laxmi Travels Luxury Bus No. AR-11-C-1600 and below Seat No.F-1, the accused seat and one grey coloured bag was found. In the said bag, concealed contraband was recovered. It is a case of prosecution and allegation leveled against the present applicant. Based on the said fact, offence was registered under Sections 8(C), 20(b)(ii)(C) and 29 of NDPS Act. Search was carried out and first state of knowledge about the contraband was silent. 3.723Kg Charas was found in different 15 packets. Said muddamal came to be seized. As specific defence raised by learned Advocate on the ground that no any material or evidence, which suggest that the applicant has direct nexus with alleged contraband. Nothing was found from the bag allegedly ID Card or any material. Though it is stated in the Affidavit, one ID Card was found and Ticket of return travel of Shree Bhola Travels was found,but based on the same submission, the opportunity given to the prosecution to show the material connect the applicant with the said contraband. Over and above as arguments canvassed by learned Advocate in connection with the delay of trial, the report was called for.

(6) The prosecution has cited 26 witnesses and perused the record, it appears that only 7 witnesses have been examined and those specific order was passed on 27-08-2026 in view of ***Central Bureau of Investigation v/s. Mir Usman @ Ara @ Mir Usman Ali***, how many material witness prosecution going to examine and how many going to drop, no specific instruction or information is

provided to learned APP. Though matter is adjourned on 16-09-2026 and today itself. Hence, perusing the record examined, it appears that only 7 witnesses have been examined till date. Considering the poor assistance, but it appears that so far as conscious possession part is concerned and alleged contraband is recovered from the bag, failed to point out any material or circumstance how the present applicant is connected with the said contraband without discussing further from merits coupled with the ground of delay.

(7) There is no possibility to conclude the trial in near future.

(8) Recovered quantity is not commercial quantity and therefore, rigors of Section 37 would not be applicable.

[7.0] This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra vs. Central Bureau of Investigation** reported in **[2012]1 SCC 40** as well as in the case of **Gudikanti Narasimhulu And Ors vs. Public Prosecutor, High Court of Andhra Pradesh** reported in **(1978)1 SCC 240.** Obviously, the conclusion of trial will take time and keeping the accused behind the bars is nothing but amounts to pre-trial conviction and therefore, considering the celebrated principle of bail jurisprudence is that "bail is a rule and jail is exception" as well as the concept of personal liberty guaranteed under Article 21 of the Constitution of India, present application deserves consideration.

[8.0] In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, prima facie, this Court is of the opinion

that this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with **FIR being C.R. No.11216006240060 of 2024** registered with **Chiloda Police Station, District-Gandhinagar** on executing a personal bond of Rs.25,000/- (Rupees twenty five thousand) with one local surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

(a) not take undue advantage of liberty or misuse liberty;

(b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not to leave India till trial is over, without prior permission of the Trial Court concerned;

(e) mark presence before the concerned police station once in a month for a period of six months;

(f) furnish the Aadhar card, email ID/present address of his residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence/contact number, SIM number without prior permission of Trial Court;

(g) if the applicant is found to be indulged in any illegal activities in future, the trial Court concerned will be free to issue warrant and cancel the bail granted to the applicant.

[9.0] The authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any

of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.

[10.0] Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with law.

[11.0] At the trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.

[12.0] Rule is made absolute to the aforesaid extent. Direct service is permitted.

(HASMUKH D. SUTHAR,J)

PARESH SOMPURA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PARESHKUMAR SOMPURA(HC00451), Principal Pvt Secretary, at High Court of Gujarat on 16/10/2026 18:10:08