



Instituted on	20/11/2025
Registered on	20/11/2025
Decided on	27/11/2025
Duration	Y __ Mo __ Days 07

**IN THE COURT OF 12TH ADDITIONAL SESSIONS JUDGE &
SPECIAL COURT (N.D.P.S.), AT SURAT**

**Cr. M. A. No. 8977 OF 2025
(Regular Bail)
Exh. __**

Applicant/ : Anandkumar Babubhai Joshi,
Accused Aged about 40 years, Occupation : Business,
Residing at : Harij, Vasrampura Street-2,
Harij, Dist.Patan.

(At present in Lajpore Central Jail, Surat)

VERSUS

Opponent : State of Gujarat

Application to Grant Bail u/s.483 of B.N.S.S.

(State Monitoring Cell, Gandhinagar Police Station - C.R. No. Part- A,
11995001250024/2025)
(Offence U/s. 8(C), 21(C) & 29 of NDPS Act)

For Applicant / Accused :- Ld. Advocate Mr. J. K. Punawala
For Opponent :- Ld. APP Mr. B. N. Chavda

-: J U D G M E N T :-

- 1) The Applicant has preferred the present Application, seeking regular Bail in connection with FIR bearing C. R. No. Part-B, 11995001250024/2025 lodged with State Monitoring Cell, Gandhinagar Police Station for the offences punishable under Sections 8(C), 21(C) & 29 of NDPS Act. The applicant was arrested on 11/11/2025.
- 2) Learned Advocate Mr. J. K. Punawala for the Applicant/Accused has argued and submitted that, the Applicant/Accused was arrested on 11/11/2025 and since then he is in judicial custody. It is further submitted that the present applicant has been falsely implicated in the present case. The applicant/accused is arrested only upon confessional statement of the other co-accused. It is further submitted that applicant was not having conscious possession of said Muddamal. There is no role of the applicant in the present case. It is submitted that there is no evidence that the applicant/accused is the owner of the said Codeine syrup or is belong to the present applicant/accused. The present applicant/accused is not the main accused of the said offence. There is no prima-facie case against the applicant/accused. It is further submitted that substantial investigation qua the present applicant/accused is already over hence, there is no requirement of applicant's further custody. Further, there is nothing on record to show that the applicant/accused is involved in any other criminal offence. It is submitted that if the present applicant is not enlarged on bail, it may amount to pre-trial punishment to him. The Applicant/Accused is ready to obey and follow whatever conditions imposed by the Hon'ble Court. Hence, prayed to allow this application and enlarge the applicant/accused on Regular Bail.

- 3) Ld. Advocate for the applicant/accused has produced documentary evidences at Exh.3, and he has also relied upon and produced copy of the following judgments vide Exh.6.

A) Joy Mitra Vs. Narcotics Control Bureau in Bail APPL.N. 372/2024 & CRL.M.A.3223/2024

B) Kachrual Vs. Union of India in Misc. Criminal Case No.38010/2024.

- 4) Per contra, Learned APP Mr. B. N. Chavda for the State has vehemently opposed the bail application and strongly submitted that the applicant is accused of commission of serious nature of crime. Further, argued that the applicant is involved in offence under Section 8(C), 21(C), 29 of NDPS Act as the applicant was apprehended in the case involving 1912 bottles of Codeine syrup, which constitutes a commercial quantity. Further, the co-accused of the said offence is still not arrested by the police hence, if this applicant will be granted bail he may help wanted accused to avoid his arrest. The investigation of the said offence is still underway. It is further submitted that keeping in view of the commercial quantity of the muddamal and keeping in view the provisions of Section 37 of the NDPS Act, prayed for the rejection of the present application. It is further stated that applicant is involved in serious offence which may affect life of other persons and if applicant/accused be released on bail, he may again involve himself in similar type of offence and he may tamper with the evidence of the prosecution and he would also not be available during the trial. The learned APP has prayed for rejection of bail application by taking into consideration the gravity of offence and its implication upon the society.

- 5) It is settled position of law that, while deciding bail application, two aspects in form of individual's liberty and social interest are required to be considered simultaneously. The object of bail is neither punitive nor preventive. The jurisdiction to grant or reject bail is to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in arbitrary manner. It is also required to note that, at the time of deciding bail application Court is not required to appreciate and scrutinize the evidence in great detail, but Court is required to see prima-facie case or involvement and relevant factors like nature of offence, manner in which the offence has been committed, role or contribution and other authentic circumstances are required to be considered.
- 6) Heard the Learned Advocates appearing on behalf of the respective parties and perused the affidavit of I.O. It appears that the FIR has been registered for the offences under Sections Sections 8(C), 21(C) & 29 of the NDPS Act, involving muddamal 1912 bottles of Codeine Phosphate and Tripolidine Hydrochloride Cough Syrup each of 100 ml, in all total 191.2 liter of worth of Rs. 3,44,160/-. Now upon going through the facts and Affidavit and papers produced on the desk of this Court, it appears that, the prima-facie allegations has been made against the applicant/accused. Further, upon perusal of the affidavit of Investigation Officer, it transpires that the present offence appears to be serious in nature and the role attributed to the present applicant/accused is of supplier of the alleged contraband i.e. 1912 bottles of codeine i.e. 191.2 liter codeine syrup and hence, the applicant/accused is prima-facie involved in the present offence. Further, it transpires that, the said contents can not be segregated from the main muddamal. Thus, for "codeine" the quantity of entire

muddamal is required to be taken into consideration and in schedule of NDPS Act at Sr. No.28 the small and commercial quantity of "Codeine" is provided wherein "small quantity - 10 grams" and "commercial quantity - 1 Kg" is provided and in this case, the total quantity of muddamal is 191.2 liter, which is more than 1 kg. At this juncture, it is required to consider the observation made in the case of "**Hira Singh v. Union of India**", reported in 2020 (20) SCC 272", by the Hon'ble Apex Court in which it has been laid down in Para-10(II) that, *"In case of seizure of mixture of Narcotic Drugs or Psychotropic Substances with one or more neutral substance(s), the quantity of neutral substance(s) is not to be excluded and to be taken into consideration along with actual content by weight of the offending drug, while determining the "small or commercial quantity of the Narcotic Drugs or Psychotropic Substances"* Thus, this Court is of the view that, the present muddamal falls under the commercial quantity and Section 37 of the NDPS Act would be applicable. If the present applicant/accused released on bail, in that case it adversely affects the society. Looking to the seriousness of the offence as well as the offence been committed against the youth of the nation. This Court is not inclined to exercise the discretionary powers under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in favour of the present applicant/accused, at this stage.

- 7) In view of the principle laid down by The Hon'ble Supreme Court of India in the case of **State Of Kerala vs Rajesh** on 24 January, 2020, CRIMINAL APPEAL NO(S). 154-157 OF 2020 and in view of the facts of the present case the muddamal involved in the matter is of commercial quantity and Section 37 of the NDPS Act would be attracted.

- 8) Further, there is prima-facie case against the applicant/accused as he was apprehended in the case involving a total of 1912 bottles of Codine Syrup. It further appears that the co-accused is still not arrested by the police authority. Further, if the applicant/accused will be released on bail there are all chances that he may flee away and not be available for Trial. It is also required to note that quantity of Codine syrup involved in this offence is commercial i.e. 1912 bottles hence, rigors of Section 37 of NDPS Act is applicable. It further appears that the investigation qua the present applicant/accused is underway. It appears that if applicant/accused be released on bail, he may again involve himself in similar type of offence and he may tamper with the evidence of the prosecution. Further, the Ld. Advocate for the applicant/accused could not brought on record any fact that the applicant/accused is not involved in the present offence. Hence, considering the facts of the case, the application of the applicant/accused does not require consideration at this stage.
- 9) This court has taken into consideration the ratio laid down in the judgments relied upon and produced by the applicant/accused as well as the ratio laid down by the Hon'ble Apex Court in the case of (1) **Sanjay Chandra Vs. CBI**, reported in (2012) 1 SCC 40, (2) **Arneshkumar vs. State of Bihar**, (2014) 8 SCC 273 and (3) **Satenderkumar Antil Vs. CBI**, reported in (2021) 10 SCC 773. Moreover, this court has also considered the provisions of sec.483 of B. N. S. S.
- 10) Therefore, considering all the facts and circumstances discussed hereinabove, this Court is of the opinion that the case of the present applicant/accused is not an appropriate case to exercise the discretionary power under Section 483 of B. N. S. S. in favour

of the present applicant/accused at this stage, hence, the following order:

ORDER

The present application of the applicant/accused **Anandkumar Babubhai Joshi** to grant regular Bail is hereby **"Rejected"**.

Yadi be sent to the concerned police station.

It is hereby made clear that the observations made in the present bail application order shall not be construed as expression or opinion on the merits of the case.

Pronounced in the open Court today on this **27th day of November, 2025**, under my hand and seal of this court.

Dated : 27/11/2025
Place : Surat

(Riteshkumar Kantilal Modh)
12th Additional Sessions Judge, Surat
(GJ00825)

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