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**IN THE COURT OF 5TH ADDITIONAL SESSIONS JUDGE &
SPL. JUDGE, NDPS, AT GANDHINAGAR**

Criminal Miscellaneous Application No.363 of 2026

Exh.

Mohammed Mohsin Iqbalbhai Kuwawala

...Applicant

V/s.

Union of India through
Inspector
Narcotics Control Bureau,
Zonal Unit, Ahmedabad.

...Opponent

Subject :- An application for regular bail under Section 483 of B.N.S.S.

Offence:- NCB/AZU/C.R. No.30/2024 registered with NCB Ahmedabad Police station for the offence punishable under section – 20(B), 8(C), & 29 of the N.D.P.S Act.

Appearance :

Ld. Advocate, Mr. I. Z. Mansuri for applicant.

Ld. Special Public Prosecutor NCB, Mr. M. G. Kapadiya for the opponent.

:: JUDGMENT ::

1. Invoking jurisdiction of this court under Section 483 of B.N.S.S., the applicant has filed this application to release applicant on regular bail, in connection with the offence being I-C.R.No.NCB/AZU/CR-30/2024 registered with N.C.B. Police Station for the offence punishable under section - 8(C), 20(b)(ii)C & 29 of the N.D.P.S Act.
2. On presentment of application, notice issued to the other side and Learned Special Public Prosecutor appearing for the opponent and the

I.O. has submitted objection on affidavit at Exh.5. I have heard the arguments of learned advocate for the respective parties.

3. Learned advocate for the applicant has submitted that applicant is innocent and he has not committed any alleged offence and he has been falsely implicated in the alleged offence. He has been in judicial custody for 16 months. No muddamal has been recovered from the applicant. Investigation has been completed and charge-sheet has been filed in the alleged offence and hence there is no question of tampering with evidence. Investigation has been over. Applicant is only bread earner in his family. Applicant has no any criminal antecedents. Applicant will not flee from justice. Applicant will abide all the terms and conditions, which may be imposed by this Hon'ble Court. Lastly, learned advocate for the applicant has prayed to release applicant on regular bail.
4. On the other hand, Learned Special Public Prosecutor appearing for the opponent has submitted that Charas of 10.556 Kg on 28.10.2024 in a Tata Indica Car bearing registration no.GJ-01-RK-9375 have been seized, from active possession of applicant accused namely Mohammed Moshin Iqbalbhai Kuwawala, applicant was sited on rear seat where the seized Charas was kept/hide. Thereafter, during investigation application stated that he was involved with his uncle Sheikh Bashir Ahmad who has procured charas from Showkat r/o Kashmir. Applicant also admitted that his aunt Suraiyabanu Bashirahmed Kuvawala was actively involved with them in illegal trafficking of Charas. Therefore the applicant accused is deeply involved in a criminal conspiracy which are prohibited under NDPS Act, 1985 and thereby committed an offence. Hence, learned P.P has urged to reject the present application.
5. I have heard the learned Advocate for the applicant and learned Special Public Prosecutor for the opponent. I have also gone through the papers

and perused the entire record and examined the case materials available on record.

6. The applicant-accused is facing alleged commission of offences under section - 8(C), 20(b)(ii)C & 29 of the N.D.P.S Act. It is a settled law that while deciding the bail application, the court need not to appreciate the admissibility of evidence or to conduct the mini trial. I have considered the entire materials available on record.
7. From the contentions of FIR, prima facie it reveals that the accused has played important role in commission of alleged offence. From the affidavit of IO, it reveals that Charas of 10.556 Kg on 28.10.2024 in a Tata Indica Car bearing registration no.GJ-01-RK-9375 from active possession of accused namely Mohammed Moshin Iqbalbhai Kuwawala. Thereafter, during investigation statement of applicant was recorded from that it revealed that seized contraband Charas was supplied by the Showkat. Therefore the applicant accused is deeply involved in the contraband which is more than commercial quantity and a criminal conspiracy which are prohibited under NDPS Act, 1985 and thereby committed an offence. Hence, the present F.I.R has been registered in the alleged offence. Further, the accused cannot be released on bail unless mandatory conditions provided under Sec. 37 of the NDPS Act, 1985, and there is nothing on record or produced by the applicant to show the satisfaction as provided in the said section. It also seems that if applicant-accused is released on regular bail then he may hamper or tamper with evidence, witnesses and complainant. Applicant will not remain present during trial in the alleged offence.

Further, it is on record that applicant had filed application for temporary bail before Sessions Court, Gandhinagar in Cr.M.A. No.1773

of 2025 was rejected. Thereafter, the applicant preferred applications before the Hon'ble High Court of Gujarat which were rejected.

8. So far as the argument that charge-sheet is filed and thus there is change in circumstances is concerned, on this point, I would like to refer the observations made by Hon'ble Supreme Court in the case of **Virupakshappa Gouda And Another vs The State of Karnataka And Another CRIMINAL APPEAL NO. 601 OF 2017**. The necessary para is required to be reproduced hereinbelow.

"On a perusal of the order passed by the learned trial Judge, we find that he has been swayed by the factum that when a charge-sheet is filed it amounts to change of circumstance. Needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons."

9. Thus, considering the entire facts of the case, the role attributed by the applicant and as per the affidavit of IO and the gravity of offence, and the impact on the society, etc. this court is of the opinion that this is not a fit case to exercise discretion to enlarge the applicant on regular bail. Hence, in the facts and circumstances of the case, in the interest of justice, the following order is passed.

:: ORDER ::

The present application is hereby rejected.

Signed and pronounced on this 9th day of March, 2026.

Date : 09/03/2026
Place : Gandhinagar

[Dilip P. Purohit]
5th Additional Sessions Judge &
Spl. Judge, NDPS,
Gandhinagar (GJ00928)