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**IN THE COURT OF 8TH ADDITIONAL SESSIONS JUDGE
GANDHIDHAM-KACHCHH**

Criminal Misc. Application No.410/2026

Applicant : **Bharatbhai Ravjibhai Koli (Thakor)**
Age : 25 years, Occupation :Driving,
Residing at Lambariya Vadi Vistar,
Village : Kidiyanagar, Rahpar-Kachchh.
(At present in Judicial Custody)

Versus

Opponent : **The State of Gujarat**
Through The Additional Public Prosecutor
Gandhidham, Dist. Kachch.

Appearances:

Ms. K. D. Jethwa, L.A. for the applicant/accused.

Ld. A.P.P. Ms. H. P. Gadhvi, for the opponent.

J U D G M E N T

- 1 The present successive bail application is preferred by the applicant-accused for granting bail u/s.483 of BNSS. Accused came to be arrested in connection with CR. No. 11993010250221/2025 for the alleged offence under Section 8(C), 15(C) and 29 of NDPS Act and under Section 238(b) of BNS registered with Rahpar Police Station. The applicant is in judicial custody since

10/06/2025. Earlier, the applicant/accused filed bail application bearing CRMA No. 129/2026, which came to be rejected vide order dtd. 06/03/2026. The charge-sheet came to be filed, which came to be registered as NDPS Case No. 87/2025 pending before this Court. Therefore, present application has been filed seeking enlargement on bail under Section 483 of BNSS. This is the successive bail application moved by the applicant/accused.

- 2 The case of the prosecution in a nut shell is such that on 10/06/2025 accused Savabhai Dudabhai Chavda, resident of Kidiyanagar, Taluka Rapar, Kutch, had, along with accused Bharat Ravji Koli, age 25, resident of Kidiyanagar, Taluka Rapar, transported and trafficked a total quantity of 299.8 kilograms of Posh Dodda (Poppy Straw) worth Rs.8,99,400/- in a white Mahindra Bolero Maxx pickup vehicle bearing registration No. GJ 39 T 4769 for the purpose of sale. Accused Bharat Ravji Koli was arrested from the spot, whereas Accused Savabhai Dudabhai Chavda was not found present. Both accused persons, by aiding each other, committed the said offence, regarding which the said FIR has been lodged. During investigation, it has also been found that Nathabhai Savabhai Chavda constantly in contact with the main accused helping in co-ordination. The allegation against the present applicant is that he is the main person who has supplied the entire consignment of contraband.

- 3 The Ld. Advocate Mr. F M Chavda for the applicant-accused has submitted that the applicant is innocent and has been falsely implicated in the present offence; the allegations made in the FIR are incorrect, exaggerated, and do not disclose any direct involvement of the present applicant in the alleged offence; no overt act attracting the alleged provisions has been committed by the applicant; no illegal or incriminating article has been recovered or seized from the possession of the applicant; the prosecution has implicated the applicant merely on the basis of suspicion and with an ulterior motive; the investigation is now completed and the charge-sheet has already been filed before the Court; therefore, no further custodial interrogation of the applicant is required; the charge-sheet reveals that more than 64 witnesses have been cited by the prosecution; hence, the conclusion of trial is likely to take a long time; continued incarceration of the applicant before conclusion of trial would amount to pre-trial punishment; the applicant is a permanent resident of Rapar, Kutch, having deep roots in society and family responsibilities; therefore, there is no possibility of absconding or evading the process of law; the presence of the applicant can always be secured during trial; the applicant has no past criminal antecedents and is not a habitual offender; the applicant belongs to a respectable family and is the sole earning member of the family; if continued in custody, the entire family would suffer irreparable hardship; it is a settled principle of law that “Bail is the Rule and Jail is an

Exception”; the continued detention of the applicant would be contrary to the fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India; co-accused in the present offence has already been enlarged on bail by the Hon’ble Gujarat High Court in Criminal Misc. Application No. 8102 of 2026; the role attributed to the present applicant is comparatively lesser than that of the said co-accused; therefore, on the principle of parity laid down by the Hon’ble High Court, the present applicant is also entitled to be released on regular bail; reliance is also placed upon the judgment in *Rameshbhai Batubhai Dabhi v. State of Gujarat*, reported in 2011(3) GLR 1999; the applicant places reliance upon the judgment of the Hon’ble Supreme Court in *Sanjay Chandra v. CBI*, reported in 2012(1) GLH 93, wherein the principle that personal liberty cannot be curtailed for an indefinite period when trial is likely to take substantial time; the applicant is a permanent resident of Rapar Taluka of Kutch District; hence, the applicant humbly prays to be released on bail on furnishing a light surety; therefore, it is prayed that the applicant, may kindly be ordered to be released on bail on furnishing appropriate surety.

4 The Investigating Officer Mr. D. R. Gadhvi, PSI, Balasar Police Station has opposed this application mainly on the grounds that

4.1 The present applicant/accused is specifically named in the FIR from the very inception of the case and his

involvement is clearly disclosed in the investigation papers.

- 4.2 The applicant/accused was apprehended with narcotic substance namely “Poppy Straw (Posh Doda)” being transported in Bolero pick-up vehicle bearing Registration No. GJ-39-T-4769, which was found in his conscious possession.
- 4.3 The said Bolero vehicle bearing Registration No. GJ-39-T-4769 used in the commission of the offence is registered in the name of the present applicant/accused, thereby establishing his direct nexus with the alleged offence.
- 4.4 During the course of investigation, it has been revealed that on 09/06/2025, co-accused Narendrabhai @ Nathabhai Savabhai Chavda contacted the present applicant and shared through WhatsApp the mobile number 9875062346 belonging to co-accused Lakhabhai @ Babubhai Govabhai Rabari, who is alleged to be the supplier of the contraband substance.
- 4.5 Investigation further reveals that on 10/06/2025 at about 00:13:37 hours, co-accused Savabhai Dudabhai Chavda made a phone call from mobile number 9727866446 to the present applicant on mobile number 8320309420 and conversation took place between them. Call Detail Records (CDR) further reveal that from 01/01/2025 till 10/06/2025, there were

approximately 68 telephonic conversations between the present applicant and the said co-accused, indicating continuous and active contact between them.

4.6 Further, on 10/06/2025 at about 00:26:29 hours, co-accused Nathabhai Savabhai Chavda made another call from mobile number 7096184844 to the applicant on mobile number 8320309420 and conversation continued for about 24 seconds. Investigation also reveals that between 01/01/2025 and 10/06/2025, there were around 48 calls exchanged between the applicant and the said co-accused. The SIM card bearing mobile number 8320309420 is registered in the name of the present applicant himself, thereby corroborating his connection with the co-accused persons.

4.7 Looking to the seriousness and gravity of the offence under the NDPS Act, if the applicant is released on regular bail, there is every possibility that he may directly or indirectly influence witnesses, tamper with evidence, or threaten prosecution witnesses, thereby causing serious prejudice to the prosecution case.

4.8 It is further submitted that if the applicant is enlarged on bail, there is likelihood of repetition of similar offences and the applicant may again indulge in illegal and anti-social activities. Considering the serious nature of the offence, releasing the applicant on bail would adversely affect societal interest and public order.

4.9 Therefore, considering the gravity of the offence, the material collected during investigation, the involvement of the applicant reflected from the call detail records, ownership of the vehicle used in transportation of contraband, and the possibility of tampering with evidence, this is not a fit case for exercising discretion in favour of the applicant. Hence, it is most respectfully prayed that this Hon'ble Court may be pleased to reject the present Regular Bail Application filed by the applicant/accused in the interest of justice.

5 Ld. APP Ms. H. P. Gadhvi has endorsed the submissions made by the investigating officer and has further contended that the present bail application deserves to be rejected considering the serious nature and gravity of the offence under the NDPS Act involving commercial quantity of contraband substance; the applicant is specifically named in the FIR and was found in conscious possession of Bolero vehicle No. GJ-39-T-4769 from which "Posh Doda" was recovered; the said vehicle is registered in the name of the present applicant himself; investigation further reveals continuous telephonic contact of the applicant with co-accused persons and the Call Detail Records prima facie establish his active involvement in the transportation and conspiracy relating to the contraband substance; the prosecution has also collected material showing WhatsApp communication connecting the applicant with the supplier of the

contraband substance; the contention regarding parity is not applicable in the present case; the role attributed to the present applicant is distinct, direct, and more serious in nature as the contraband was recovered from the vehicle owned and possessed by him and there is independent electronic evidence against him. Therefore, the case of the present applicant stands on a different footing from the co-accused who has been enlarged on bail; further, considering the rigours of Section 37 of the NDPS Act, the applicant has failed to satisfy the mandatory conditions for grant of bail; if enlarged on bail, there is every likelihood of tampering with evidence or influencing witnesses; hence, it is respectfully prayed that the present Regular Bail Application be rejected in the interest of justice.

- 6 Perused the application and heard both sides. So far as bail is concerned, the principle that 'Bail is a rule and Jail is an exception' has been laid down and reiterated in a plethora of judgments pronounced by the Hon'ble Supreme Court of India. As laid down in the statute itself, granting or rejecting bail is a discretionary power of this Court under Sec.483 of Bharatiya Nagrik Suraksha Sanhita. However, it is expected from this Court that it will use such discretion judiciously and after applying the settled principles of law. As held by the Apex Court in the case of ***Bhagwan Singh v. Dilip Kumar @ Deepu - 2023 (13) SCC 549***, "*The grant of bail is a discretionary relief which necessarily means that such discretion would have to be*

exercised in a judicious manner and not as a matter of course. The grant of bail is dependent upon contextual facts of the matter being dealt with by the Court and may vary from case to case. There cannot be any exhaustive parameters set out for considering the application for grant of bail.”

- 7 While deciding the bail application, what should be the criteria to be kept in mind has been aptly observed by the Hon'ble Apex Court in the case of ***Ajwar and Others V/s. Waseem and Another, reported in 2024(5) JT 534***, wherein Hon'ble Apex Court has held in para-26 that - “26. *While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail.*”
- 8 Keeping in mind the above principles, at this juncture it is important to note that while deciding an application for bail this Court is not expected to delve deep into the merits

of the case and a view based only on available material on record is required. At this stage, the Court is not supposed to analyse the evidence and enter into detailed merits as the same would be subject matter of the Trial Court. This Court is only required to place its view based on probability on the basis of reasonable material collected during investigation.

- 9 It needs to be mentioned here that this is a successive bail application and the earlier bail application being CrMA/129/2026 which was also filed after chargesheet has been rejected by this Court on merits. The only ground on which the present application has been moved is the ground of parity since a co-accused has been released on bail after charge-sheet by the Hon'ble High Court of Gujarat. Therefore, the only question that needs to be looked into at this juncture is whether the applicant is entitled to parity?
- 10 In the present case, the present applicant is arraigned as an accused in an offence registered under Sections 8(c), 15(c), 29 of the NDPS Act and Section 238(b) of the Bharatiya Nyaya Sanhita, involving seizure of 15 bags of Poppy Straw, which undisputedly falls within the category of commercial quantity. Therefore, the rigours of Section 37 of the NDPS Act squarely apply. At the outset, it emerges from the record that the present applicant is specifically named in the FIR and was apprehended in connection with transportation of commercial quantity of contraband

substance namely “Posh Doda” weighing 299.8 kilograms from Bolero vehicle bearing Registration No. GJ-39-T-4769. Prima facie, the said vehicle is registered in the name of the present applicant himself. Further, the Call Detail Records and WhatsApp communications collected during investigation indicate continuous and active contact of the applicant with other co-accused persons connected with the alleged offence. The contention raised by learned advocate for the applicant regarding parity with co-accused who has been enlarged on bail by the Hon’ble High Court also does not merit acceptance. The principle of parity cannot be applied in a mechanical manner. From the material placed on record, the role attributed to the present applicant appears to be distinct, direct and more serious in nature. The contraband substance was allegedly recovered from the vehicle owned and possessed by the present applicant and there exists independent electronic evidence in the nature of Call Detail Records and WhatsApp communication connecting the applicant with the alleged conspiracy and transportation of contraband substance. Therefore, the case of the present applicant stands on a different footing from that of the co-accused who has been granted bail and, hence, the principle of parity is not applicable to the facts of the present case. Hence, this Court is of the considered opinion that the present applicant is not entitled to discretionary relief of regular bail. From what has been hitherto discussed, the following final order is passed -

ORDER

- The present application is hereby rejected.

Order pronounced on this Twenty Ninth day of May, two thousand twenty six in open Court.

DATE : 29/05/2026
Gandhidham.

(LALIT DILIP WAGH)
8TH ADDITIONAL SESSIONS JUDGE,
Gandhidham -Kachchh.
UI Code No.GJ01087.