



Instituted on	12/03/2026
Registered on	12/03/2026
Decided on	20/03/2026
Duration	Y __ Mo __ Days 08

**IN THE COURT OF 11TH ADDITIONAL SESSIONS JUDGE &
SPECIAL COURT (N.D.P.S.), AT SURAT**

**Cr. M. A. No. 1854 OF 2026
(Regular Bail After Charge-Sheet)
Exh. __**

Applicant/ : **Sanjaykumar @ Shiva Ajitkumar Nayak,**
Accused Aged about 24 years, Occupation : Labourwork,
Residing at : House No.208, Arpan Apartment,
Rangnagar Society, Near Jain Derasar,
Amroli, Surat.
Permanent Resident of Village : Mamudhiyu,
Thana : Aska, Post : Devbhumi,
Dist. : Ganjam (Odisha)
(At present in Lajpore Central Jail, Surat)

VERSUS

Opponent : State of Gujarat

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

(Amroli Police Station - C.R. No. Part- A, 11210004250716/2025)
(Offence U/s. 8(C), 20(B)(II)(C) & 29 of NDPS Act)

For Applicant / Accused :- Ld. Advocate Mr. S. D. Daiya
For Opponent :- Ld. DGP Mr. N. L. Sukhadwala

-: 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, 11210004250716/2025 lodged with Amroli Police Station for the offences punishable under Sections 8(C), 20(B)(II)(C) & 29 of NDPS Act. The applicant was arrested on 08/04/2025.
- 2) Learned Advocate Mr. S. D. Daiya for the Applicant/Accused has argued and submitted that, the Applicant/Accused was arrested on 08/04/2025 and since then he is in judicial custody. It is further submitted that the present applicant has been falsely implicated in the present case. It is further submitted that the applicant/accused was not having conscious possession of the said drug. It is further submitted that there is no role of the applicant in the present case. It is further submitted that there is no evidence that the applicant/accused is the owner of the said Ganja or is belong to the present applicant/accused. It is further stated that there is no prima-facie case against the applicant. The applicant/accused is never involved in any other criminal offence before this so called offence. It is further submitted that investigation of the offence is already concluded and charge-sheet is also filed, hence, there is no requirement of applicant's further custody. It is vehemently argued by Ld. Advocate for the applicant that other co-accused of the same offence have been released on regular bail by Hon'ble High Court of Gujarat, hence, law of parity is applicable to this accused. It is submitted that if the present applicant is not enlarged on bail, it may amount to pre-trial punishment. The Applicant/Accused is ready to obey and follow whatever conditions imposed by the Court. Hence, prayed to this Court to allow application and enlarge the applicant 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 the

copy of the judgment of **Rameshbhai Batubhai Dhabhi Vs. State of Gujarat, reported in [2011] 3 GLR 1999 / [2012] 8 RCR(Cri) 770 / [2011] 0 Supreme(Guj) 243.**

- 4) Per contra, Learned DGP Mr. N. L. Sukhadwala for the State has vehemently opposed the bail application and strongly submitted that the applicant is accused of commission of serious nature of crime as the applicant/accused was arrested from the place of offence involving 22.240 KG Ganja. Further, argued that the applicant is involved in offence under Section 8(C), 20(B)(ii)(C) & 29 of the NDPS Act involving 22.240 KG Ganja which constitutes commercial quantity hence, rigors of Section 37 of NDPS Act is applicable. The present applicant/accused is the main accused of the said offence. It is submitted that the applicant was arrested subsequently in this offence. It is also submitted that keeping in view 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 submitted that the co-accused of the said offence is still not arrested by the police authority hence, if the applicant/accused is released on bail he may help wanted accused to avoid his arrest. It is further submitted that if the applicant/accused be released on bail there are all chances that he may tamper with the evidence of the prosecution and he would also not be available during the Trial. It is stated that applicant is involved in serious offence which may affect the life of other persons. The learned DGP 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) I have 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), 20(B)(II)(C) & 29 of the NDPS Act, involving Ganja in commercial quantity. It further appears that the applicant was legally arrested in this offence and it also appears that commercial quantity of the muddamal is involved in present case.
- 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, Ld. Advocate for the applicant, has submitted that investigation of the offence is already concluded and charge-sheet is also filed, hence, applicant be released on bail. But it is required to be noted that the Hon'ble Apex Court in various judgments, has held that merely filing of charge-sheet is not a sole ground to release the applicant/accused on regular bail, when there is prima-facie case against the applicant/accused. Further, the present applicant/accused is the main accused of the said offence, hence, it is not appropriate to release him on regular bail. It appears that

the quantity of Ganja constitutes commercial quantity and hence, rigors of Section 37 of NDPS Act is applicable. So far parity is concerned, as other co-accused have been released on regular bail by Hon'ble High Court of Gujarat, however, looking to the commercial quantity of muddamal, the role attributed to the present offence and facts and circumstances of the case as well as applicability of sec.37 of NDPS Act, it is not appropriate to apply parity to the present applicant/accused. It further appears that important witnesses are yet to be examined. Further, at this stage, if this applicant will be released on bail, he may tamper with the evidences of prosecution. The applicant/accused is permanent resident of Odisha hence, there are all chances that he may flee away and he would also not be available during the Trial. Further, the accused could not show any plausible reasons to come to a prima-facie view that, the accused is not involved in the alleged offence. Further, the act of the accused also affect the society at large. Considering the facts of the case, this Court is not inclined to exercise the discretionary powers in favour of the present applicant/accused, at this stage.

- 9) This court has taken into consideration the ratio laid down in the Judgment relied upon by the applicant/accused in his application as well as 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.439 of Cr. P. C. and 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 the 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 **Sanjaykumar @ Shiva Ajitkumar Nayak** to grant regular Bail is hereby **"Rejected"**.

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 **20th day of March, 2026**, under my hand and seal of this court.

Dated : 20/03/2026
Place : Surat

(Riteshkumar Kantilal Modh)
11th Additional Sessions Judge, Surat
(GJ00825)

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