



**IN THE COURT OF SPECIAL JUDGE (NDPS) &
2ND ADDITIONAL SESSIONS JUDGE
AHMEDABAD [RURAL] @ MIRZAPUR, AHMEDABAD.**

Criminal Misc. Application No. 3927 of 2022.

Applicant-accused. : Kiransinh S/o. Jitendrasinh Chauhan.

Age : 33 Years,

Occupation : Farmer.

Residence :

Delavas, Chiyada,
Ahmedabad.

Vs.

Opponent. : State of Gujarat.

Application u/s. 439 of Cr.P.C. for Regular Bail (After Charge-sheet)

APPEARANCE:

Ld. Advocate for the Applicant. : Mr. V. U. Goswami.

Ld. P. P. for the Opponent. : Mr. P. M. Trivedi.

:: O R D E R ::

1. The present application is preferred by the applicant-accused after filing of the charge-sheet under Section 439 of the Criminal Procedure Code seeking regular bail in connection with **FIR**

being **C.R. No. 11192020220281/2022** registered with **Dholka Town Police Station** for the offences punishable under **Sections 8(C), 21(c) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985** (hereinafter referred to as "*The NDPS Act*").

2. Ld. Advocate Mr. V. U. Goswami appearing on behalf of the applicant-accused has reiterated the contents of the application and submitted that the applicant-accused is an innocent person and he is falsely implicated in the alleged offence and he is not committed the offence as alleged in the FIR. It is further submitted that the applicant-accused is not named in the FIR and he is implicated only on the basis of statement of co-accused and if the entire FIR is perused then it does not disclose any offence against the applicant-accused much less an offence u/s. 8(C), 21(c) and 29 of the NDPS Act. It is further submitted that co-accused Zakirbhai Kalubhai Nayak has already been enlarged on regular bail by Hon'ble High Court vide order dated 09.12.2022 in CrMA No.21301 of 2022 and another co-accused Mukeshbhai

Vajubhai Raval has also been enlarged on bail by Hon'ble High Court vide order dated 08.12.2022 in CrMA No.22507 of 2022, hence the applicant-accused is also entitled to have benefit of parity. It is further submitted that no recovery or discovery is done from the present applicant-accused and looking to the facts of the case as well as conduct of the applicant-accused, it can be inferred that there was no intention of committing alleged offence. It is further submitted that the applicant-accused is residing at the address mentioned in captioned application, having deep roots in the society and he will not abscond and will abide by all the terms and conditions imposed by this Court. Hence, it is submitted that the applicant-accused be released on regular bail.

3. Ld. P.P. Mr. P. M. Trivedi appearing on behalf of the opponent-State has strongly objected this application and drawn attention of this Court towards the affidavit filed by the Investigating Officer vide Exh.5 and further submitted that, in the present case 39 bottles of narcotic cough syrup amounting to Rs.4,875/- was seized and recovered, and total Muddamal of Rs.20,975/- including mobile phone of Rs.5,000/-, Rs.1100/- in cash and two

wheeler vehicle of Rs.10,000/- was recovered. It is submitted that the applicant-accused had handed over the seized bottles of narcotic cough to the co-accused Mukesh Vajubhai Raval who in turn handed over the said bottles to co-accused Zakirbhai Kalubhai Nayak who was arrested on the spot with the possession of the said narcotic cough syrup bottles. It is further submitted that the applicant-accused is involved in another offence of similar nature registered at Madhupura Police Station vide I-Cr.No.570/2022 and if the applicant-accused is released on bail then he might get involved himself again in such illegal activities and may not be available during trial of the case. Hence, it is submitted that, this application be rejected considering the nature and gravity of the offence.

4. Perusing the available record, it is revealed that investigation has been completed and Charge-sheet has been filed and Special (NDPS) Case No.31/2022 is registered and pending before this Court.
5. Looking to the facts and circumstances of the case and

considering entire materials on record, in the present case, 39 bottles of narcotic cough syrup amounting to Rs.4,875/- was seized and recovered. Further, in the present case the co-accused Zakirbhai Kalubhai Nayak has been released on regular bail by Hon'ble Gujarat High Court vide order dated 09.12.2022 passed in Criminal Misc. Application No. 21301 of 2022 and co-accused Mukeshbhai Vajubhai Raval has also been released on regular bail vide order dated 08.12.2022 in Criminal Misc. Application No.22507 of 2022, hence, the present applicant-accused is entitled to have benefit of parity. Thus, without further going into the merits of the case as well as considering the foregoing discussion and keeping in mind the principle of parity, it is proper case to exercise discretion in favour of the applicant-accused and accordingly, the present application for regular bail deserves to be allowed. Hence, the following order is passed:-.

::: O R D E R :::

1. This **Criminal Misc. (Reg. Bail) Application No.3927 of 2022**, is hereby **allowed**.
2. The **applicant-accused–Kiransinh S/o. Jitendrasinh Chauhan**,

resident of the address shown in the cause title is hereby **released on bail** on furnishing personal bond of **Rs.10,000/- and one surety of like amount** in connection with **FIR being C.R.No. 11192020220281/2022** registered with **Dholka Town Police Station** for the offences punishable under **Sections 8(C), 21(c) and 29** of the NDPS Act, subject to following conditions that;

- I. That the applicant/accused shall mark his personal presence before the concerned Police Station on First Monday of every month between 10.00 a.m. to 5.00 p.m. till six months.*
- II. To appear before Investigating Officer as and when called upon by the Investigating Officer and to co-operate him in investigation.*
- III. The applicant/accused must remain present during the judicial proceedings against him on each occasion before the Court without fail.*
- IV. Not to take undue advantage of his liberty or abuse his liberty and must not indulge himself in any illegal activity.*
- V. Not to act in a manner injurious to the interest of the prosecution;*
- VI. Not to tamper with evidence or influence the witnesses concerned.*
- VII. To Furnish his present address as well as permanent address to the Investigating Officer and also to this*

Court at the time of execution of bond and in case of change of any address, then he shall inform his new address to this Court immediately.

VIII. *The applicant-accused will not leave the territory of India without prior permission of the Court.*

IX. *The applicant-accused shall furnish his contact number / mobile number.*

X. *If any of the condition is breached by applicant/accused, the bail & bond will be automatically stand cancelled.*

3. Bail is to be given before the concerned Court.
4. Copy of this Order be furnished in the concerned Police Station.

Pronounced and signed on today i.e. 17th December, 2022.

Date : 17/12/2022.

Place: Ahmedabad.

[D. K. Dave]

Special Judge (NDPS)

2nd Addl. District & Sessions Judge,
Ahmedabad (R) at Mirzapur.

UID : GJ00519