

Reserved On : 23/03/2026

Pronounced On : 01/04/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC. APPLICATION NO. 2135 of 2026
(FOR SUCCESSIVE REGULAR BAIL - AFTER CHARGESHEET)**

FOR APPROVAL AND SIGNATURE:**HONOURABLE MR. JUSTICE DIVYESH A. JOSHI : Sd/-**

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Approved for Reporting	Yes	No
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JOSHI MUKESHKUMAR BHANUSHANKAR

Versus

STATE OF GUJARAT

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Appearance:

MR AS TIMBALIA(7372) for the Applicant(s) No. 1

MR ROHAN SHAH APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**CAV JUDGMENT**

1. Rule. Learned APP waives service of notice of rule for respondent – State of Gujarat.
2. The present application, which is a successive bail application preferred by the applicant after the rejection of earlier bail application being Criminal Misc. Application No.7776/2025 by an order dated 19.06.2025, is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, for regular bail in connection with the FIR being C.R. No.III-08/2022 registered with the ATS Police Station, Ahmedabad for the offence punishable under Sections 8(C), 21(C) and 29 of the NDPS Act.

3. Heard learned advocate, Mr. A.S. Timbalia assisted by learned advocate, Mr. B.K. Raj for the applicant and learned APP Mr. Rohan Shah for the responded – State of Gujarat.
4. Learned advocate, Mr. Timbalia submitted that this is a successive bail application preferred by the applicant after the rejection of earlier bail application pursuant to the liberty granted by the Hon'ble Supreme Court. He submitted that in connection with the aforesaid offence, the applicant has been arrested on 28.02.2023 and since then, he is in judicial custody i.e. since last more than three years and till date, the trial has not proceeded further and the charge has not been framed by the court concerned. He submitted that at the time of submission of the chargesheet, the concerned Investigating Officer has relied upon total 95 witnesses, however till date, not a single witness has been examined by the concerned court, therefore, trial will take considerable long time to conclude, therefore for indefinite period, the applicant may not be kept behind the bar, otherwise, it would amount to pre-trial punishment, which would also violate the fundamental right under Article 21 of the Constitution of India.
5. Learned advocate, Mr. Timbalia submitted that in fact, other co-accused viz., Ayman @ Ayan @ Baba Musa Shaikh, who is attributed graver role than the present applicant, had approached the Hon'ble

Supreme Court against the rejection of his bail application by this Hon'ble Court, has been released on bail by the Hon'ble Supreme Court, copy of said order is produced on record. He referred to the said order and submitted that the Hon'ble Supreme Court has observed while releasing the said co-accused that no contraband or any material is found from the conscious possession of the said accused and he had suffered period of incarceration of nearly 17 months and here in the present case on hand, there is no recovery found from the conscious possession of the present applicant. He submitted that considering the said observation, if the facts of the present applicant is concerned, in that event, it is found out that the applicant is in judicial custody since last more than 36 months and so far as the role attributed to the present applicant is concerned, it is alleged that he was in constant touch with the co-accused and in support of it, the concerned IO had collected CDR, however except, CDR, there is no material available in the papers of the chargesheet, which connect him with the alleged commission of crime. He further submitted that against the co-accused, who has been considered for bail by the Hon'ble Supreme Court, the material available against him was the CDR and considering the said fact also, the Hon'ble Supreme Court has exercised the descretion and as submitted above, except CDR, there is not material

available in the papers of the chargesheet, which connect him with the alleged commission of crime. He submitted that in fact, the said co-accused had received huge volume of amount of the contraband articles from the co-accused and also paid more than Rs.4.00 crores to other co-accused through angadiya and he was also in constant touch with other co-accused. It is, therefore, submitted that considering the role attributed to the said co-accused, admittedly the role attributed to the present applicant is lesser than the said co-accused. Learned advocate submitted that in view of the number of decisions of the Hon'ble Supreme Court including recent decisions, bail is a rule and jail is exceptional. Learned advocate, therefore, submitted that considering the period of incarceration, the Hon'ble Supreme Court has considered the case of bail of the accused concerned. In support of this submission, learned advocate has placed reliance upon the decisions of the Hon'ble Supreme Court as well as this Hon'ble Court and submitted that negation of bail is the rule and its grant and exception under sub-clause (ii) of clause (b) of Section 37(1) of the NDPS Act. It is, therefore, urged that considering the nature of the offence, the period of incarceration spent by the applicant so far as also on the ground of parity, there being merit in this application, the applicant may be enlarged on regular bail by imposing suitable conditions.

6. Learned APP, Mr. Shah for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. He submitted that since beginning, the name as well as role of the present applicant has come on surface and thus, his active involvement in the alleged commission of crime is clearly found out, therefore, this being successive bail application may not be entertained without there being any chanced circumstances. He submitted that the applicant is possessing decree of B.Sc. And B.Ed. and having experience in the chemical field and he had come in contact with other accused persons and in connivance with each other, they have rented one premises, wherein the present applicant had manufactured Mephedrone drug and the said contraband substance had been sold in the open market in huge quantity. He further submitted that the contraband muddamal articles have been recovered from the conscious possession of the co-accused, which commercial quantity, therefore, rigors of Section 37 of the NDPS Act would come into play. Learned APP, therefore, submitted that considering the seriousness of the offence and the role attributed to him at the time of commission of crime, the present application may not be entertained.
7. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

8. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. It is found out from the record that the present application is a successive bail application preferred by the applicant after the rejection of earlier application on the ground of delay in trial and period of incarceration spent by him in judicial custody since his arrest as also on the ground of party as other co-accused, who is having graver role than the present applicant has been considered for bail by the Hon'ble Supreme Court.
9. I have considered the role attributed to the present applicant at the time of commission of crime and the role attributed to the co-accused, who have been considered for bail. It is also found out from the record that there are around 95 witnesses cited at the time of submission of chargesheet and there is no progress in the trial also. In fact, by an order dated 23.02.2026, a report with regard to the status of trial was called, which has been received by this Court and having perused the same, it is found out that there is no progress in trial and yet the charge has not been framed and not a single witness has been examined and thus admittedly, trial has not been proceeded further, therefore, trial would take considerable long time to conclude. Therefore

considering the above factual aspects, on the ground of parity and considering the period of incarceration spent by the applicant in jail, the present application deserves to be allowed.

10. I have taken into consideration the recent decisions of the Hon'ble Supreme Court in the matter of regular bail as also successive bail application, wherein it has been categorically observed that "bail is the rule and refusal is an exception" and specific observations have been made with regard to the grant of bail. I have also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**, reported in [2012] 1 SCC 40 as well as in case of **Satender Kumar Antil v. Central Bureau of Investigation & Anr.** reported in (2022) 10 SCC 51. Therefore in the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR as also considering the period of incarceration spent by the applicant in jail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

11. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.III-08/2022 registered with the ATS Police Station, Ahmedabad on executing a personal bond of

Rs.50,000/- (Rupees Fifty Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

- [a] not take undue advantage of liberty or misuse liberty;
- [b] not act in a manner injurious to the interest of the prosecution;
- [c] surrender passport, if any, to the concerned court within a week;
- [d] not leave the State of Gujarat without prior permission of the concerned court;
- [e] mark presence before the concerned Police Station on alternate Monday of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
- [f] furnish the present address of residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;

12. The authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the concerned Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify

and/or relax any of the above conditions, in accordance with law.

13. At the trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.
14. Rule is made absolute to the aforesaid extent. Direct service is permitted.

Sd/-
(DIVYESH A. JOSHI, J.)

Gautam