

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER
CHARGESHEET) NO. 13859 of 2026

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PANKAJBHAI NAMDEVBHAI SONVANE
Versus
STATE OF GUJARAT

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Appearance:

MR KISHAN K NAYI(13080) for the Applicant(s) No. 1
MR VIRAT G POPAT(3710) for the Applicant(s) No. 1
MR JAY MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 29/07/2026
ORDER

[1.0] RULE. Learned APP waives service of notice of Rule for and on behalf of the respondent – State of Gujarat.

[2.0] Present Criminal Misc. Application is filed by the applicant-original accused No.5 under Section 483 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short “BNSS”) for regular bail in connection with FIR being **C.R.No.11995001250041 of 2025 registered with State Monitoring Cell Police Station, District-Gandhinagar**, for the offence under Sections 3(1)(ii), 3(2), 3(4) and 3 (5) of the Gujarat Control of Terrorism and Organized Crimes Act, 2015 (for short “GUJCTOC Act”).

[3.0] Learned advocate for the applicant submitted that the applicant is innocent and has been falsely implicated in the present case. It is submitted that the provisions of the GUJCTOC Act have been invoked mechanically and merely on the basis of presumptions, without satisfying the mandatory statutory requirements prescribed under the Act. Learned advocate

contended that the object of the GUJCTOC Act is to curb organized crime and organized crime syndicates, and not to invoke its stringent provisions as a preventive measure in the absence of the essential ingredients constituting an offence under the Act. It is further submitted that a bare perusal of the FIR reveals that, instead of initiating preventive action under the relevant preventive detention law, the investigating agency has chosen to invoke the provisions of the GUJCTOC Act. It is submitted that the offences relied upon by the prosecution pertain to the period from **03.03.2019 to 18.10.2022**, and those offences have been taken into consideration solely for the purpose of invoking the provisions of the GUJCTOC Act. However, none of the said offences establishes the existence of an organized crime syndicate, nor do they demonstrate that the present applicant was either a member of such a syndicate or had acted on its behalf. Learned advocate further submitted that the FIR has been lodged after an unexplained delay of about four months. It is also submitted that no offence has been registered against the applicant after the year 2022, which itself demonstrates that the applicant is not engaged in any continuing unlawful activity, a mandatory requirement for attracting the provisions of the GUJCTOC Act. Therefore, the essential ingredients of the offence under the GUJCTOC Act are not satisfied, and the provisions of the Act have been wrongly invoked against the present applicant. It is also submitted that a co-accused, against whom similar allegations and an identical role have been attributed, has already been enlarged on bail by this Court. Therefore, on the ground of parity, the present applicant is also entitled to be enlarged on regular bail. Learned

advocate further submitted that the investigation has been completed and the charge-sheet has already been filed. Nothing further remains to be recovered or discovered from the applicant. Considering that the trial is likely to take considerable time to conclude, continued incarceration of the applicant would serve no useful purpose. It is, therefore, prayed that the present application be allowed and the applicant be enlarged on regular bail.

[4.0] *Per contra*, learned APP vehemently opposed the application and submitted that the present applicant is specifically named in the FIR and is an active member of an organized crime syndicate. It is submitted that as many as 40 criminal antecedents have been registered against the applicant, out of which 19 offences have been taken into consideration for invoking the provisions of the GUJCTOC Act, which clearly establish his continuous involvement in serious criminal activities. Learned APP further submitted that the material collected during the course of investigation, including WhatsApp chats and other documentary and electronic evidence, prima facie indicates that the applicant was actively involved in the illegal procurement, transportation, and supply of IMFL in the State of Gujarat, where the sale and distribution of liquor are prohibited by law. The investigation also reveals that the applicant was in constant contact with bootleggers and was operating as part of an organized crime syndicate engaged in continuing unlawful activities. It is further submitted that, considering the applicant's criminal antecedents and his active role in the organized crime syndicate, there is every likelihood

that, if released on bail, he would tamper with the prosecution evidence, influence or intimidate witnesses, and indulge in similar criminal activities. Therefore, looking to the gravity and nature of the allegations, the material collected during the investigation, and the statutory rigours of the GUJCTOC Act, no case is made out for exercising discretion in favour of the applicant. It is, therefore, prayed that the present application be dismissed.

[5.0] Having heard the learned advocate for the both sides and going to the record, it appears that the allegation against the present applicant is that along with the co-accused, present applicant has indulged in the activity of bootlegging and he is engaged in transportation of country-made liquor, using the forged number plates, though liquor is prohibited in the State of Gujarat. In this regard, various offences are registered against the applicant. So far invocation of GUJCTOC Act and application of the GUJCTOC Act is concerned, this Court, at this stage, has not entered into applicability of Section 2 (c) of “continuous illegal activity” on the part of present applicant. Charge sheet is filed under GUJCTOC Act. Considering the nature of the allegation and delay in the trial, present application is deserved consideration.

[6.0] Whether the present applicant is engaged in “organized crime” or member of the syndicate is a disputed question of the fact. However, while deciding the bail application for the offence under the GUJCTOC Act, Court is supposed to consider the provision of section 20 of the GUJCTOC Act and this Court is of considered view that to invoke the provisions of the GUJCTOC

Act, following conditions are required to be fulfilled.

- (i) That such an activity should be prohibited by law for the time being in force;
- (ii) That such an activity is a cognizable offence punishable with imprisonment of three years or more;
- (iii) That such an activity is undertaken either singly or jointly, as a member of an organized crime syndicate or on behalf of such syndicate;
- (iv) That in respect of such an activity more than one charge-sheet must have been filed before a competent Court; and
- (v) That the charge-sheet must have been filed within a preceding period of ten years; and
- (vi) That the Courts have taken cognizance of such offences.

[7.0] Herein undisputedly the charge sheet is filed, wherein two offences are registered against the present applicant and already PASA and externment proceedings in connection of Gujarat Prohibition Act came to be initiated, but as to whether present applicant, as member of organized crime syndicate or on behalf of such syndicate had taken any benefit from such illegal activity or as a syndicate he had continued illegal activity is a matter of trial. Hence, this Court has considered the submissions made on behalf of the respective parties only with a purpose to consider the bail applications and Court has not opined anything about the applicability or otherwise of provisions of the GUJCTOC Act while deciding the present bail application. While deciding the bail application, Court has to consider only settled principle of law to considered bail application only.

[8.0] While granting bail, the Court has to consider the involvement of the accused in the alleged offence, the jurisdiction to grant bail has to be exercised on the basis of the well settled principles having regard to the facts and circumstances of each case and the following factors are to be taken into consideration while considering an application for bail: (i) the nature of accusation and the severity of the punishment and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses and threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations are required to be considered.

[9.0] Herein, this Court has considered the provision of Section 20(4) of the GUJCTOC Act and rigors of said section. In this regard, reference is required to be made to the decision of the Hon'ble Supreme Court in the case of **Ranjitsingh Brahmajeetsingh Sharma vs. State** reported in **(2005) 5 SCC 294** and **State of Gujarat vs. Sandip Omprakash Gupta** reported in **2022 SCC OnLine (SC) 1727**. Since applicant is arrested in November 2025, trial will take its own time. Considering the long period of incarceration and also considering the fact that obviously commencement and conclusion of trial will take its own time and therefore, considering the right to speedy justice as enshrined under Article 21 of the Constitution

of India, in howsoever serious offence or under the special Act an accused is involved, on the ground of delay in trial, the accused is entitled to be released on bail without further discussing anything on merits, mainly on the ground of delay in trial, present applications deserve consideration. Further as the co-accused having similarly situated role are enlarged on regular bail and therefore, on the ground of parity also (***Rameshbhai Batubhai Dhabhi Vs. State of Gujarat reported in 2011 (3) GLR 1999***), present application deserves consideration.

[9.1] Further, the Hon'ble Supreme Court has consistently held that trials under the special law are unduly delayed and rigors of stringent bail provisions must yield to constitutional promise of liberty though under Section 20(4) of the GUJCTOC Act and under the special Act like NDPS Act pari materia provisions are there and stringent conditions while considering bail application is must, the Hon'ble Supreme Court is in favor of exercising the discretion in favor of the accused on the ground of delay in trial if same is not attributable to the accused.

[9.2] the Court has to consider the question of liberty of accused. In this regard, reference is required to be made to the decision of the Hon'ble Supreme Court in the case of **Satender Kumar Antil vs. CBI and Anr.** reported in **(2022) 10 SCC 51**, **Mohd Muslim @ Hussain vs. State (NCT of Delhi)** reported in **AIR 2023 SC 1648** and **Union of India vs. K.A. Najeer** reported in **(2021) 3 SCC 713**. Further, in absence of any justification for prolonged incarceration and delay in trial and in light of the settled proposition of law laid down by the Hon'ble Supreme Court in the case of **Siddhant vs. State of**

Maharashtra reported in **2024 SCC OnLine (SC) 3798** and **Manish Sisodia v. Enforcement Directorate** reported in **2024 SCC OnLine (SC) 1920**, as the Hon'ble Supreme Court has observed that right to speedy trial is essential facet of Articles 19 and 21 of the Constitution of India, prolonged incarceration without trial amounts to preventive detention prior to adjudication without trial. In light of the above, this Court is of considered view that rigors of section 21 of the GUJCTOC Act stand deleted and hence, without further discussing anything on merits, mainly on the ground of delay in trial, present applications deserve consideration.

[10.0] Upshot, this Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra vs. Central Bureau of Investigation** reported in **[2012] 1 SCC 40** as well as in the case of **Gudikanti Narasimhulu And Ors vs. Public Prosecutor, High Court of Andhra Pradesh** reported in **(1978) 1 SCC 240**. Obviously, the conclusion of trial will take time and keeping the accused behind the bars is nothing but amounts to pre-trial conviction and therefore, considering the celebrated principle of bail jurisprudence is that "bail is a rule and jail is exception" as well as the concept of personal liberty guaranteed under Article 21 of the Constitution of India, present applications deserve consideration.

[11.0] In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, *prima facie*, this Court is of the opinion that this is a fit case to

exercise the discretion and enlarge the applicant on regular bail. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with **FIR being C.R. No.11995001250041 of 2025 registered with State Monitoring Cell Police Station, District-Gandhinagar** on executing a personal bond of Rs.1,00,000/- (Rupees One Lac only) with one local 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 & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not to leave India without prior permission of the Trial Court concerned;
- (e) mark presence before the concerned police station once in a month for a period of six months between 11 a.m. and 2 p.m.;
- (f) furnish the present address of his 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 Trial Court;
- (g) if the applicant is found to be indulged in any illegal activities in future, the trial Court concerned will be free to issue warrant and cancel the bail granted to the applicant;

- (h) **shall not enter Gujarat State** for a period of **SIX MONTHS** except for the purpose of marking presence before the concerned police station and/or appearing before the Court.

[12.0] 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 Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.

[13.0] 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.

[14.0] 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.

[15.0] Rule is made absolute to the aforesaid extent. Direct service is permitted.

ALI

(HASMUKH D. SUTHAR,J)