

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 15253 of 2026**

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MUSTAKBHAI NURMAHMEDBHAI CHAUHAN
Versus
STATE OF GUJARAT

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Appearance:

DHRUV TOLIYA(9249) for the Applicant(s) No. 1
MR ADITYA JADEJA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 31/07/2026
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 under Section 483 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short “BNSS”) for regular bail in connection with **FIR being C.R.No.11186009260133 of 2026 registered with Veraval Police Station, District-Gir Somnath**, for the offence under Sections 3(1)(ii), 3(2) and 3(4) of the Gujarat Control of Terrorism and Organized Crimes Act, 2015 (for short “GUJCTOC Act”).

[3.0] Learned advocate for applicant, has submitted that the applicant is falsely implicated in the offence and GUJCTOC is wrongly invoked, particularly in the offence pertaining to the Gujarat Prohibition Act. Even for the sake of argument, if it is accepted that the applicant-accused is involved in the prohibition offences, in that case also, PASA is required to be

invoked. He submitted that no case is made out with regard to illegal activity of the applicant or he being a member of an unlawful assembly. The present applicant is not involved in continuous illegal activity. He submitted that seven offences are registered, and that too under the Gujarat Prohibition Act and Gambling Act etc, therefore, GUJCTOC is wrongly invoked. He submitted that the applicant is arrested on 24.02.2026 and trial is yet to be progressed, therefore, on the ground of delay also, present applicant may be released. Accordingly, he has prayed to allow the present application.

[4.0] *Per contra*, learned APP has opposed application on the ground that the present applicant is connected with the syndicate and he is a member of an “organized crime syndicate” and he is engaged in the illegal activity with the syndicate. It is submitted that present applicant is involved in eight offences. He further submitted that, in various police stations of Gujarat, different offences are registered against the present applicant and proceedings for PASA and externment came to be initiated. He also submitted that present applicant is named in the FIR and his *prima facie* involvement is there and as per the Section 20(4) (v) of the GUJCTOC Act, he requested to dismiss the present application, as present applicant is indulge in the bootlegging and illegal activity.

[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 present applicant has indulged in the activity of bootlegging and he is engaged in transportation of liquor, 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. However, since offence under GUJCTOC is registered, so far as question to establish the continuity of the “unlawful activity” is concerned, the same is a question of evidence. On bare perusal of the complaint, it appears that eight offences are registered against the present applicant. Against the applicant, eight offenses were registered, but out of the eight, he was acquitted in one. 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 offences are registered against the present applicant 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.

[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. Further, Co-accused having similarly situated role are enlarged on regular bail and therefore, on the ground of parity also **(Rameshbhai Batubhai Dhabi Vs. State of Gujarat reported in 2011 (3) GLR 1999)**, present application deserves consideration.

[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.11186009260133 of 2026 registered with Veraval Police Station, District-Gir Somnath** on executing a personal bond of Rs.1,00,000/- (Rupees One Lac only) with one solvent 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 State of Gujarat 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 Veraval District** 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.

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(HASMUKH D. SUTHAR,J)