

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER
CHARGESHEET) NO. 27790 of 2025

=====

AJAJ KHAN S/O ESRAIEL KHAN
Versus
STATE OF GUJARAT & ANR.

=====

Appearance:

MR. KISHAN H DAIYA(6929) for the Applicant(s) No. 1
MS HETVI H SANCHETI(5618) for the Respondent(s) No. 2
MS JIRGA JHAVERI, APP for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR.JUSTICE UTKARSH THAKORBHAI
DESAI

Date : 08/04/2026

ORAL ORDER

1. Heard learned advocate Mr. Zubin Bharda appearing on behalf of learned advocate Mr. Kishan Daiya for the applicant, learned advocate Ms. Hetvi Sancheti for the respondent No.2 and learned Additional Public Prosecutor Ms. Jirga Jhaveri appearing on behalf of the respondent-State.

2. **Rule.** Learned APP waives service of rule on behalf of the respondent-State.

3. The applicant has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for enlarging the

applicant on Regular Bail in connection with FIR being C.R. No. DRI/AZU/SRU/B/NDPS-01 of 2025 registered with DRI Surat, for the offence punishable under Sections 20, 23, 29 read with 8(c) of the NDPS Act.

4. Learned advocate Mr. Zubin Bharda on behalf of learned advocate Mr. Kishan Daiya for the applicant who has reiterated the averments of the application. Mr. Bharda at the outset has submitted that, the rigors of Section 37 of the NDPS Act, 1985 can not be made applicable in the present case since the quantity of contraband Ganja is 14.252kgs. Mr. Bharda has also drawn the attention of the Court to the statement of the applicant, which came to be recorded by the Investigating Officer, wherein he had stated that he was told that he would have to smuggle gold from Thailand to India to which he had agreed and that, he was not aware about the contraband Ganja being conceal in the trolley bag, which was handed over to him at Thailand. Mr. Bharda has also submitted that, since the chargesheet is filed, further incarceration of the applicant will not benefit the Investigation Officer in any

manner. Mr. Bharda upon instructions has submitted that, the applicant would remain within the geographical limits of State of Gujarat till the completion of the trial. It is further contended that, the applicant is ready and willing to abide by all the conditions that may be imposed by this Court, if released on bail.

5. Heard learned advocate Ms. Hetvi Sancheti for the respondent No.2-DRI, Surat Regional Unit. Ms. Sancheti has vehemently opposed this application submitting that, the applicant was found in conscious possession of the contraband Ganja weighing 14.252kgs. He was aware about the contraband being placed in the trolley bag which was handed over to him at the airport. According to Ms. Sancheti the rigors of Section 37 of the NDPS Act, 1985 would apply in the present case, since the quantity of Ganja was 14.252kgs. Ms. Sancheti has also submitted that, only because the investigation is completed and chargesheet has been filed, the same cannot be the reason to enlarge the applicant on bail, since the offence committed by him is against the society and the nation. Thus, Ms. Sancheti has urged the Court to not exercise any

discretion in favour of the applicant and the application may be dismissed.

6. Learned Additional Public Prosecutor Ms. Jirga Jhaveri appearing for the respondent – State has adopted the arguments of learned advocate Ms. Sancheti and has urged the Court to reject this present application.

7. I have heard learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered:-

- i. Though the applicant is a permanent resident of Rajasthan district, he would remain within the State of Gujarat during the trial;
- ii. There are no criminal antecedents against the applicant;
- iii. The rigors of Section 37 of the NDPS Act, 1985 would not be applicable since, the quantity of contraband seized is not commercial;

iv. The apprehension of learned Special prosecutor as regards the applicant once again indulging in similar kind of offence after being granted bail, can be put to rest by imposing stringent conditions;

v. The investigation being completed, chargesheet has been filed;

8. This Court has 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.

9. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the First Information Report, 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.

10. Hence, the present application is allowed. The applicant is ordered to be released on bail in connection with F.I.R. registered as C.R. No. DRI/AZU/SRU/B/NDPS-01 of 2025 registered with DRI Surat, on executing a bail bond of Rs.25,000/- (Rupees Twenty Five

Thousand only) with two local sureties 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 his passport, if any, to the trial court within a week, and if he does not possess a passport, he shall file an affidavit to that effect;

[d] not leave the State of Gujarat till the completion of the trial;

[e] furnish the present address of his residence to the I.O. and to the Court at the time of execution of the bond and shall not change his residence without prior intimation to the I.O. and the court;

[f] mark his presence **every alternate day for three months and thereafter every Friday** before Directorate of Revenue Intelligence Unit, Surat Regional Unit, Surat till the trial is over;

[g] not indulge in similar kind of offence hereinafter, for which, he shall file affidavits before the concerned special court and the police station.

11. 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 Court concerned will be at liberty to take appropriate action in accordance with law.

12. Bail bond to be executed before the trial 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 stage of trial, the competent court shall not be influenced by any observations of this Court which are of preliminary nature, made at this stage only for the purpose of enlarging the applicant on regular bail.

14. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct service is permitted.

KAJAL

(UTKARSH THAKORBHAI DESAI, J)