IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 18664 of 2026

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CHANDRAKANT K. CHHEDA SON OF KESHAVJEET CHHEDA

Versus

STATE OF GUJARAT & ANR.

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Appearance:
MR ND NANAVATY, SR. ADVOCATE with MR RAHIL P JAIN(7305) for the Applicant
MS HETVI H SANCHETI(5618) for the Respondent(s) No. 2
MR HARDIK SONI, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 21/10/2026

ORDER

[1.0] **RULE.** Learned APP waives service of rule for the respondent-State.

[2.0] The present application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with **DRI/AZU/SRU/VSU/NDPS 01 of 2025** registered at the office of the Directorate of Revenue Intelligence, Sub-Regional Unit, Vapi for the offences under Sections 8(c), 22(c), 25, 27(A), 28 and 29 of the Narcotic Drugs and Psycotropic Substances Act,1985 (for short "NDPS Act").

[3.0] Learned Senior Advocate Mr. N.D. Nanavaty assisted by learned advocate Mr. Rahil Jain appearing on behalf of the applicant submits that applicant is innocent and has been falsely implicated in the offence. Investigation is over and charge-sheet has been filed. Applicant is in custody since 04.11.2025. He has further submitted that the applicant was having supervisory role and it is alleged that present applicant has provided logistic support to the co-accused. Further, merely based on the statement of the co-accused, present applicant is involved in the offence and the present applicant is not having any similar nature of past antecedent. There is no flight risk since applicant is having movable and immovable properties and

shall abide by whatever condition this Court may impose while releasing the applicant on bail.

[3.1] Further, he has submitted that there is no direct role of the present applicant in the alleged offence and applicant is not involved in production of alleged contraband or in providing any alleged raw material. Further, he has argued that commencement and conclusion of trial will take its own time and therefore, it is respectfully prayed that the applicant be enlarged on regular bail on such terms and conditions as this Hon'ble Court may deem fit and proper.

[4.0] Learned advocate Ms. Hetvi Sancheti appearing for respondent No.2 has vehemently opposed the present application on the ground that based on intelligence, officers of DRI raided the premises at Atgam, Valsad and found illegal manufacturing unit of Alprazolam which is a psychotropic substance under the NDPS Act. Further, the applicant was found at the premises and during the search, large quantity of finished and semi-finished of said contraband alongwith the raw material, chemical and machinery used for manufacturing of the said psychotropic substance were found. The weight of alleged psychotropic substance recovered was in huge quantity i.e. 47.700 Kg, which is much higher than the notified quantity i.e. only 100 gram. Further, she has submitted that applicant was not providing only the logistic support but he has actively participated in manufacturing of the said psychotropic substance and has also invested money in manufacturing, processing of the said substance and has even shared the profit. She has further argued that the offence is a serious one since huge commercial quantity is involved and therefore, considering rigors of section 37 of the NDPS Act, she has requested not to exercise the discretion in favor of the applicant since the involvement of the applicant is clearly revealed.

[5.0] Learned APP adopting the submissions made by the learned advocate Ms. Sancheti has also vehemently opposed the present application and requested to dismiss the same.

[6.0] Having heard learned Counsel appearing for the respective parties and perusing the material placed on record, it appears that officers of respondent No.2 filed a complaint in connection of illicit manufacturing, possessing, selling, purchasing, transporting, financing and trafficking of psychotropic substance i.e. Alprazolam defined under Section 2(xiii) of the NDPS Act in contravention of section 8(c) of the NDPS Act punishable under Sections 22, 25, 27(A) and 29 of the NDPS Act. Further, the applicant is specifically named in the complaint as accused No.2 and is arrested on 05.11.2025. As per the intelligence shared by the Additional Director, DRI, Ahmedabad Zonal Unit, two persons i.e. accused No.1 and present applicant (accused No.2) both are found to be engaged in illicit manufacturing of Alprazolam i.e. psychotropic substance. As per the said intelligence, raid was carried out at 1st Floor, 36, Neva Faliya, Khergam Road, Dhobikuva, Atgam, District Valsad after complying with mandatory provisions under Section 42 of the NDPS Act and present applicant was found alongwith one labourer. During the investigation, it was found that present applicant is directly involved in the manufacturing of alleged psychotropic substance namely Alprazolam in clandestine manner and drawing the spot panchnama, **Alprazolam in huge quantity i.e. 47.700 Kg** was recovered. While drawing the panchnama, semi-finished goods and raw material was also found which would obviously fall under the commercial quantity and therefore, rigors of section 37 of the NDPS Act are attracted. Further, during the raid, finished substance weighing 9.240 Kg and semi-finished substance weighing 104.150 Kg and thus aggregating to **113.99 Kg** was found and confiscated.

[6.1] Further, statement of witnesses have been recorded from which the involvement of the present applicant is found not only in providing the premises but in procuring raw material. The applicant is also found to have made investment in the production of the alleged contraband. The applicant has also shared profit which clearly reveals from the statement of material collected during the investigation. It also reveals from the investigation papers that the applicant has set-up the plant for manufacturing of the said

psychotropic substance. Further, based on the analysis of CDR, involvement of applicant alongwith co-accused and supplier of raw material i.e. accused No.1 and accused No.3 is also found since present applicant is found in constant touch of the co-accused.

[6.2] Considering the aforesaid facts, it *prima facie,* appears that the role attributed to the applicant is that he is the financier and made investment in the manufacturing plant and shares 50% of the profit i.e. approximately Rs.3.5 lakh. The applicant has arranged the premises and godown and also employed labourers and made payment to accused No.3. Thus, the applicant was not only having control as a supervisor but is also found actively participating in manufacturing of the said contraband and was having full knowledge about the said illegal activity. Further, under the pretext of manufacturing nail polish or nail polish remover, the applicant has continued production of Alprazolam in clandestine manner. Herein, is not a case that merely based on the statement of the co-accused, applicant is arrested, but CDR and other evidence also collected during investigation. Hence, prima facie involvement of applicant in aid of Section 29 of the NDPS Act reveals. Section 29 of the Act reads as under:-

> *"29. Punishment for abetment and criminal conspiracy. (1) Whoever abets, or is a party to a criminal conspiracy to commit, an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in section 116 of the Indian Penal Code (45 of 1860), be punishable with the punishment provided for the offence.*
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> *(2) A person abets, or is a party to a criminal conspiracy to commit, an offence, within the meaning of this section, who, in India, abets or is a party to the criminal conspiracy to the commission of any act in a place without and beyond India which--*
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> *(a) would constitute an offence if committed within India; or*
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> *(b) under the laws of such place, is an offence relating to narcotic drugs or psychotropic substances having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within India."*

In the case of **Union of India v. Nawaz Khan** reported in (**2021**) **10 SCC 100 (3 Judges' Bench),** the Hon'ble Supreme Court has elaborately

discussed the test which the High Court should adopt while granting bail, “reasonable grounds to believe”, “conscious possession” of contraband and principles for ascertaining the same have been summarized. At this stage, it is apposite to refer to the decision of the Hon’ble Supreme Court in the case of **State of Kerala etc. vs. Rajesh etc.** reported in **AIR 2020 SC 721,** wherein considering the provisions of Section 37(1)(b)(ii) of the NDPS Act, it has been held that since the offence involves recovery of the narcotic drug in excess of its commercial quantity, the Court is required to record its satisfaction that there are reasonable grounds for believing that the applicant is not guilty of such offence and that the applicant is not likely to commit any offence while on bail and the Court is required to record a finding mandated under Section 37 of the NDPS Act which is a *sine qua non* for grant of bail to the accused under the NDPS Act.

[6.3] Since the case involves commercial quantity of contraband, rigors of Section 37(1)(b) of the NDPS Act are attracted. Before granting bail, the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. Both these conditions are mandatory. In the present case, having regard to the material collected during the investigation, the applicant's knowledge of the transaction, and his alleged role in manufacturing of the contraband, this Court is not satisfied that the twin conditions prescribed under Section 37 are fulfilled. Therefore, this is not a fit case for exercising discretion in favour of the applicant. It is also not a case where the applicant has been implicated solely on the basis of statements of co-accused recorded under Section 67 of the NDPS Act. The material on record *prima facie* indicates that the applicant played an active role in supplying the contraband and coordinated with the co-accused, thereby demonstrating conscious involvement in the alleged offence. In this regard, reference may be made to the decisions of the Hon'ble Supreme Court in the cases of **Union of India v. Vigin K. Vergese** reported in **2025 INSC 1316 and Union of India v. Namdev** reported in **2025 LiveLaw (SC)**

109, wherein it has been observed that in cases involving commercial quantity of narcotic substances, grant of bail is an exception and refusal of bail is the rule. The Court must interpret the provisions of the NDPS Act in a manner that advances its object and purpose and not in a manner that frustrates them. *Prima facie*, the material on record indicates that the applicant was involved in an organized activity of manufacturing and selling of contraband Alprazolam. Consequently, no ground is made out for relaxing the mandatory requirements of Section 37 of the NDPS Act. Further, in view of Sections 29 and 37 of the NDPS Act, and having regard to the principles laid down by the Hon'ble Supreme Court in **State of Punjab v. Balraj Singh @ Billa** reported in **2026 INSC 618,** mere delay in trial cannot by itself be a ground for granting bail when the offence involves commercial quantity and the *prima facie* involvement of the accused is evident from the record.

[6.4] A Liberal approach in the matter of bail under the NDPS Act is uncalled for. Section 37 of the NDPS Act starts with a non-obstante clause and therefore, the provisions of Section 437/439 of the Code of Criminal Procedure would not be applicable with regard to a person accused of an offence punishable under Section 19 or Section 24 or Section 27A and also for offences involving commercial quantity of contraband. The words "reasonable grounds" also appear in clause (i) of Section 437 of Cr.P.C. but the authority given to a High Court or a Court of Session under clause (a) of Section 439 permitting release on bail of any person accused of an offence would be curtailed in view of the stringent provision of Section 37(1)(b)(ii) of the NDPS Act. The limitations prescribed under the NDPS Act on granting of bail are in addition to the limitations under Cr.P.C. or any other law for the time being in force. It is further contended that while considering an application for bail with reference to Section 37 of the NDPS Act, the Court is not called upon to record a finding of not guilty. With reference to the phrase "reasonable grounds for believing".

[6.5] Moreover, other aspect to be borne in mind is that the liberty of a citizen has got to be balanced with the interest of the society. In cases where narcotic drugs and psychotropic substances are involved, the accused would indulge in activities which are lethal to the society. Therefore, it would certainly be in the interest of the society to keep such persons behind bars during the pendency of the proceedings before the court that the organized activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years.

[6.6] The seriousness of cases under the NDPS Act have to be viewed like in a murder case, where the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death-blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and deadly impact on the society, that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, the Parliament in its wisdom, has made effective provisions by introducing this Special provisions under the Act.

[6.7] So far as the argument canvassed by the learned Counsel for the applicant that the applicant is in jail since 05.11.2025 and commencement and conclusion of trial will take time and therefore, on the ground of delay

in trial, applicant may be enlarged on bail is concerned, reference is required to be made on the decision of Hon'ble Supreme Court in the case of **State of Punjab Vs. Sukhwinder Singh @ Gora** reported in **2026 INSC 411**, wherein the Hon’ble Supreme Court held that the constitutional right to speedy trial under Article 21 cannot unilaterally dilute or bypass the mandatory and statutory twin conditions for bail under Section 37 of the NDPS Act, 1985.

[6.8] The Court while considering the application for bail with reference to Section 37 of the Act is not called upon to record a finding of not guilty. It is for the limited purpose essentially confined to the question of releasing the accused on bail that the Court is called upon to see if there are reasonable grounds for believing that the accused is not guilty and records its satisfaction about the existence of such grounds. But the Court has not to consider the matter as if it is pronouncing a judgment of acquittal and recording a finding of not guilty. in the case of **Babua v. State of Orissa,** the Hon'ble Apex Court has been pleased to held that:

> *"3. In view of Section 37(1)(b) of the Act unless there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail alone will entitle him to a bail. In the present case, the petitioner attempted to secure bail on various grounds but failed. But those reasons would be insignificant if we bear in mind the scope of Section 37(1)(b) of the Act. At this stage of the case all that could be seen is whether the statements made on behalf of the prosecution witnesses, if believable, would result in conviction of the petitioner or not. At this juncture, we cannot say that the accused is not guilty of the offence if the allegations made in the charge are established. Nor can we say that the evidence having not been completely adduced before the Court that there are no grounds to hold that he is not guilty of such offence. The other aspect to be borne in mind is that the liberty of a citizen has got to be balanced with the interest of the society. In cases where narcotic drugs and psychotropic substances are involved, the accused would indulge in activities which are lethal to the society. Therefore, it would certainly be in the interest of the society to keep such persons behind bars during the pendency of the proceedings before the court, and the validity of Section 37(1)(b) having been upheld, we cannot take any other view."*

Further, in the present case, the applicant is found in illegal activity of manufacturing and selling psychotropic substance namely Alprazolam under the pretext of manufacturing nail polish and nail polish remover and therefore, considering the rigors of Section 37 of the NDPS Act and the law laid down by the Hon’ble Supreme Court in the case of **Bhawani Singh vs.**

State of Rajasthan reported in **2022 SCC OnLine SC 1991** as well as in the case of **State of Meghalaya vs. Lalrintluanga Sailo and Another** reported in **2024 SCC OnLine SC 1751, State by the Inspector of Police Vs. B. Ramu, Union of India Vs. Namdeo Ashruba Nakade** and **Union of India Vs. Ajay Kumar Singh**, the applicant is not entitled for bail.

[7.0] In view of the above, there being no merits in the present application, same is hereby ***dismissed***. However, the learned trial Court is directed to **expedite the trial** as the applicant is an under-trial prisoner. If the applicant fails to engage an Advocate then the applicant shall be provided legal aid under Section 341 of the BNSS for expeditious disposal of the trial in view of the decision of the Hon'ble Supreme Court in the case of **Ummed Devi vs. The State of Rajasthan and Anr. [2026 INSC 931]**. The applicant also shall cooperate the learned trial Court in expeditious disposal of the trial.

[8.0] It is made clear that the observations made in the present order are tentative in nature and the learned trial Court shall decide the case of the applicant independently on its own merits without being influenced by the observations made in the present order. Rule is hereby discharged.

(HASMUKH D. SUTHAR, J.)

Ajay

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 21/10/2026 15:16:34