IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL - AFTER CHARGESHEET) NO. 23616 of 2026
With
R/CRIMINAL MISC.APPLICATION NO. 23559 of 2026

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AYUSH SURESHCHANDRA SHAH
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR ND NANAVATY, SR. ADVOCATE with MR APURVA N MEHTA(7202) for the Applicant(s) No. 1
MR UTKARSH SHARMA, APP for the Respondent(s) No. 1

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

Date : 27/10/2026

COMMON ORDER

Since both these applications arise out of the one and common complaint, they are being heard, decided and disposed of by this common order.

[1.0] **RULE.** Learned APP waives service of notice of Rule for and on behalf of the respondent Nos.1 and 2.

[2.0] Both these applications are filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with **File No.DCST/ENF-11/AC1/JUNAGADH/AYUSH SHAH/2026-27/Ow.No.65 (CR.MA No.23616/2026)** and **File No.DCST/ENF-11/AC1/JUNAGADH/2026-27/Ow.No.66 (CR.MA No.23599/2026) registered with the Assistant Commissioner of State Tax (1), Enforcement, Div-11, Junagadh** for the offence under Sections 132(1)(b) and 132(1)(c) of the Gujarat Goods and Services Tax Act, 2017 and Central Goods and Services Tax Act, 2017**.**

[3.0] Learned Senior Advocate Mr. N.D. Nanavaty assisted by learned advocate Mr. A.N. Mehta appearing on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in the offence. He has further submitted that since charge-sheet is filed, nothing is required to be recovered or discovered from the applicants and maximum punishment is upto 5 years as per section 132 of the CGST Act. The applicants are in jail since 22.06.2026. It is submitted that applicants are business professionals and there in no possibility of tampering with the evidence and even the applicants are not having any past antecedent and the offence is triable by the Court of learned JMFC. He has further submitted that all the books of account, material and electronic devices have already been seized by the department and there is no possibility to influence or tamper the evidence. It is further submitted that, considering the nature of the offence, the applicants may be granted regular bail with the imposition of suitable conditions.

[4.0] Learned APP has vehemently opposed the present applications relying and reiterating the contents of objections filed on behalf of respondent No.2 has submitted that applicants herein, who happens to be father and son, in collusion and connivance of each other created 21 fictitious firms and without actually transporting the goods, they have illegally availed Input Tax Credit worth 325 Crores and caused huge loss to the public exchequer and still further investigation is going on and statement of witnesses have been recorded from which further of involvement of applicants is likely to be found out and there is possibility that amount of fraud may escalate and therefore, if the applicants are released on bail then the possibility of tampering with evidence cannot be ruled out. He has further submitted that since the data is volatile data in form of electronic, tampering of same is quite possible. He has also argued that if the applicants are released on bail then there is no possibility of present applicants to stand to trial. He has therefore,

requested to dismiss the present applications seeking regular bail, looking to the nature and gravity of the offence.

[5.0] 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.

[6.0] I have heard the learned Counsel appearing on behalf of the respective parties and perused the investigation papers as well as the objections filed on behalf of respondent No.2. Following aspects have been considered:

(1) Applicant of CR.MA No.23599/2026 is the proprietor whereas applicant of CR.MA No.23616 is the son of proprietor as well as key Managerial person of M/s. Mandovara Trading Co. and are doing the business of trading in metal scrap at Jamnagar. A search was conducted at the principle place of business of M/s. Mandovara Trading Co., Jamnagar and it was found that applicants herein have committed commercial fraud resulting in evasion of GST to the tune of Rs.23.08 Crore and have fraudulently availed Input Tax Credit worth 325 Crores and

caused huge loss to the public exchequer and it is further alleged that applicants have used 21 different firms for availing fake Input Tax Credit in clandestine manner pursuant to which an offence was registered under Sections 132(1)(b) & (c) of the CGST Act and applicants were arrested under Section 69 of the CGST Act on 22.06.2026;

(2) As statutory period is over, merely because further investigation is still going on and department is going to record statements of other witnesses, is not a ground to refuse bail merely on the ground that further investigation is going on since any investigation cannot go on endlessly;

(3) So far as apprehension of respondents as regards possibility of tampering with evidence is concerned, whether investigation is going on or is concluded, while enlarging the accused on bail, the Court has to always keep in mind the triple test and impose suitable condition to take care of the apprehension raised by the Department – respondent No.2 herein more particularly in view of the decision of the Hon'ble Supreme Court in the case of **Vineet Jain vs. Union of India** reported in **2023 SCC OnLine (SC) 2331** wherein it has been held that in economic offences carrying limited sentences, bail should normally be granted unless extraordinary circumstances exist. Herein, maximum punishment and sentence under section 132(1) of the CGST is only 5 years and the offence is triable by the Court of learned JMFC;

(4) Now, nothing is required to be discovered or recovered from the applicants / accused;

(5) Obviously commencement and conclusion of trial will take its own time.

[7.0] 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 application deserves consideration.

[8.0] In the facts and circumstances of the case and considering the nature of the allegations made against the applicants 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 applicants on regular bail. Hence, the present applications are allowed. The applicants are ordered to be released on regular bail in connection with **File No. DCST / ENF-11 /AC1 / JUNAGADH / AYUSH SHAH / 2026-27 / Ow.No.65 (CR.MA No.23616/2026)** and **File No.DCST / ENF-11 / AC1/ JUNAGADH / 2026-27 / Ow.No.66 (CR.MA No.23599/2026) registered with the Assistant Commissioner of State Tax (1), Enforcement, Div-11, Junagadh** executing a personal bond of Rs.25,000/- (Rupees Twenty-five Thousand only) **each** with **ONE SURETY** of the like amount to the satisfaction of the trial Court and subject to the conditions that they 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 leave the **territory of State of Gujarat** without prior permission of the Trial Court concerned;

(e) **Shall mark their presence before the concerned Department twice in a month for a period of THREE MONTHS between 11.00 a.m. and 2.00 p.m. and shall thereafter appear, as and when required**;

(f) furnish the UIDAI Number, Contact Number/s, Passport Number (if they are having the passport), E-mail address and 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) **shall join and fully cooperate with the further investigation and shall appear before the concerned authority as and when summoned or called upon by Respondent No.2, since further investigation is going on;**

(h) **shall not contact witnesses directly or indirectly and shall not indulge in any illegal activity or any similar type of offence failing which the concerned authority/officer of Department shall have liberty to file an application for cancellation of bail against the present applicants.**

In case of breach of any conditions, the concerned Trial Court shall have liberty to cancel the bail of the present applicants;

(i) **shall not take undue advantage of the present order and shall not prolong the trial in any manner and the applicants shall regularly mark remain present before the Court/concerned Court as and when required;**

[9.0] The authorities will release the applicants only if they are 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.

[10.0] 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.

[11.0] 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.

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

A copy of this order be kept in CR.MA No.23599/2026.

(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 27/10/2026 19:01:02