

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL MISC.APPLICATION NO. 13523 of 2022**

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JAIMIN CHHAAGANBHAI SAVANI  
Versus  
STATE OF GUJARAT

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Appearance:

KRUSHALKUMAR D SHELDIYA(8017) for the Applicant(s) No. 1  
MS KAJAL H BALDHA(12453) for the Applicant(s) No. 1  
MR JK SHAH, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA**

**Date : 07/03/2023**

**ORAL ORDER**

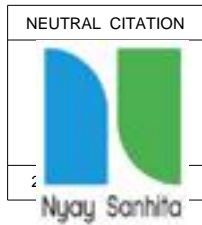
**Rule.** Learned Additional Public Prosecutor waives service of notice of Rule on behalf of respondent - State.

1. The present successive application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being C.R.No.11210046212595 of 2021 registered with Puna Police Station, Surat for offences under Sections 8(C), 22(C) and 29 of the NDPS Act.

2. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. Learned APP appearing on behalf of the respondent - State has opposed grant of regular bail looking to the nature and gravity of the offence.

4. Learned Advocates appearing on behalf of the respective

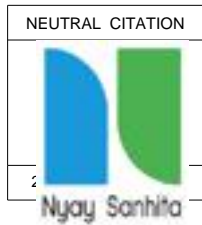


parties do not press for further reasoned order.

5. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

6. This Court has considered following aspects,

- (a) The applicant is in jail since 13.11.2021 and the investigation is over and the charge-sheet is filed.
- (b) Since the charge-sheet has been filed, no further investigation is required and thereby, no recovery and/or discovery is left which requires custodial interrogation.
- (c) Considering the investigation papers, the role attributed to the present applicant is on the basis of the statement of the co-accused that the present applicant was the proposed purchaser, who was to retain 10 grams of contraband out of total 60 grams. Thus, there is no conscious possession found from the present applicant.
- (d) The case of similarly situated co-accused, namely, Imran Maheub Shaikh has been considered by the coordinate bench of this Court vide order dated 21.12.2022 passed



in Criminal Misc. Application No.16058 of 2022 and, therefore, applying the principle of parity, the case of the applicant for regular bail deserves to be considered.

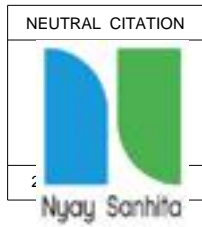
- (e) The applicant has no criminal antecedents and the same has been confirmed by learned Additional Public Prosecutor from the instruction of Investigating Officer concerned.

In the facts and circumstances of the present case and considering the role attributed to the applicant and the allegations levelled against him, the case of the applicant deserves consideration and, therefore, I am inclined to consider the case of the applicant.

7. 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**.

8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being **C.R.No.11210046212595 of 2021** registered with **Puna Police Station, Surat** on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand only) with one 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;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave the India without prior permission of the concerned trial court;

[e] mark presence before the concerned Police Station on 1<sup>st</sup> and 15<sup>th</sup> of every English calendar month for a period of one year between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present address of 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 the concerned trial court;

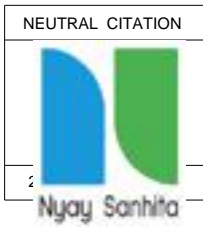
9. The authorities shall adhere to its own Circular relating to COVID-19 and, thereafter, will release the applicant only if they are not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. 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.

10. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

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ORDER DATED: 07/03/2023



11. Rule is made absolute to the aforesaid extent. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.

V.J. SATWARA

**(NIRAL R. MEHTA,J)**