

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC. APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO.7294 of 2025**

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SUNIL HIRALAL MANDOWARA

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR. APURVA N MEHTA(7202) for the Applicant(s) No. 1

MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 2

MR BHARGAV PANDYA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**Date : 07/08/2025****ORAL ORDER**

1. 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 the offence registered vide File No.DGGI/AZU/GR.E/12(4)18/2024-25 with the Office of the Directorate General of GST Intelligence (DGGI), Ahmedabad.

2. Rule. Learned APP waives service of notice of Rule on behalf of the Respondent - State, learned Advocate for the Respondent No.2 waives service of notice.

3. Heard learned Advocate Mr. Apurva Mehta appearing for the applicant. He submitted that in the present offence, investigation is

over and charge-sheet has been filed. The applicant has been arrested in connection with the present offence on 17.12.2024 and since then he is in custody. It is alleged against the applicant that the applicant had illegally obtained the benefit of Input Tax Credit. It is the case of the prosecution against the applicant that he had shown fictitious transactions of purchase of goods with a view to claim the benefit of Input Tax Credit. However, the transactions which have shown by the applicant were not fictitious. The applicant had actually purchased goods from several firms. However, after the purchase of goods by the present applicant from those firms, due to some lapses on the part of those firms, their GST registration came to be canceled for which the applicant cannot be said to have played any role. He submitted that the offence alleged against the applicant is punishable with imprisonment for a period of 5 years. The applicant has already undergone incarceration for a period of almost 8 months. He has further submitted that the applicant has good reputation in the society and no useful purpose would be served by keeping the applicant in Jail for indefinite period. 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.

4. Learned Advocate Mr. Utkarsh Sharma appearing for the GST authorities has opposed the application contending that the

applicant herein initially created forged firms on the basis of the documents like Aadhar card, Pan card etc., and thereafter, had shown fictitious transactions with those firms and had claimed Input Tax Credit worth more than Rs.10 crores and after the purpose was served, the registration of the firms created as above, was canceled. He, therefore, submitted to dismiss the present application.

5. Heard learned Advocates for the parties. In the present offence, investigation is over and complaint has filed. It is the case of the prosecution against the applicant that he had claimed the benefit of Input Tax Credit by showing some fictitious transactions on record, though actually the applicant had not purchased any such goods from any of the firms in question. As per the case of prosecution, it was the present applicant himself who had created those firms and had obtained the benefit of Input Tax Credit.

6. The offence alleged against the applicant is punishable with imprisonment up to 5 years. The applicant was arrested in connection with the present offence in the month of December 2024 and since then he is in custody. Having regard to these aspects, the present application deserves considerations and hence, the present application is hereby allowed. This Court has also considered the following aspects:

- (a) As per catena of decisions of Hon'ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. prima-facie case, availability of Applicant accused at the time of trial and tampering and hampering with the witnesses by the accused.
- (b) That the learned Advocate for the Applicant has submitted that the Applicant Accused is not likely to flee away.
- (c) That the Applicant is in custody since 17.12.2024.
- (d) The law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. C.B.I.** reported in **(2012) 1 SCC 40**.

7. Having heard the learned Advocates for the parties and perusing the record produced in this case as well as taking into consideration the facts of the case, nature of allegations, gravity of accusation, availability of the applicant accused at the time of Trial etc. and the role attributed to the present applicant accused, the present application deserves to be allowed and accordingly stands allowed. This Court has also gone through the FIR and police papers and also the earlier order passed by the learned Sessions Court where the learned Sessions Judge has disallowed the bail Application at initial stage. The applicant accused is ordered to be released on bail in connection with the aforesaid FIR on executing a personal bond of Rs.10,000/- with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions that he shall:

- (a) not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer or tamper with the evidence;
- (b) maintain law and order and not to indulge in any criminal activities;
- (c) furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change the residence without prior permission of the trial Court;
- (d) provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the trial Court;
- (e) mark presence before the concerned Police Station once in a month for a period of six months between 11:00 a.m. and 2.00 pm;
- (f) file an affidavit stating his immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any;
- (g) not leave India without prior permission of the Trial Court;
- (h) surrender passport, if any, to the Trial Court within a week. If the applicant does not possess passport, shall file an Affidavit to that effect.

8. Bail bond to be executed before the Trial Court having

jurisdiction to try the case. It would be open for the Trial Court concerned to give time to furnish the solvency certificate if prayed for.

9. If breach of any of the above conditions is committed, the Trial Court concerned will be free to issue warrant or take appropriate action according to law. The Authorities will release the Applicant forthwith only if the Applicant is not required in connection with any other offence for the time being.

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

11. Rule is made absolute to the aforesaid extent. Direct service permitted.

RAVI OZA

(M. R. MENGDEY,J)