

2026 LiveLaw (SC) 180

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SANJAY KUMAR; J., K. VINOD CHANDRAN; J.
SLP(Cr.) No. 20215 of 2025; February 16, 2026
VINAY KUMAR GUPTA *versus* STATE OF MADHYA PRADESH**

Constitution of India – Article 20(3) – Right Against Self-Incrimination – Anticipatory Bail – NDPS Act – Held that State cannot insist that an accused hand over his mobile phone as a condition for "cooperating with the investigation" if doing so forces the accused to incriminate himself - The Supreme Court held that while an appellant must join the investigation, the obligation to cooperate does not extend to a violation of the constitutional right against self-incrimination.

Narcotic Drugs and Psychotropic Substances Act, 1985 – Sections 8, 21, and 22 – Drugs (Control) Act, 1950 – Sections 5 and 13 – Grant of Anticipatory Bail – Appellant sought anticipatory bail in a case involving the seizure of 710 bottles of cough syrup from a car registered in his name, though he was not named in the FIR - Noted that since the appellant had already joined the investigation and was cooperating within the limitations prescribed by law, custodial interrogation was not warranted at this stage - allowing the appeal and setting aside the High Court's denial of bail, the Supreme Court directed that in the event of arrest, the appellant be released on terms fixed by the trial court, subject to compliance with conditions stipulated under Section 482(2) of the BNSS.

[Arising out of impugned final judgment and order dated 16-09-2025 in MCRC No. 37503/2025 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

For Petitioner(s): Mr. Tushar Giri, AOR Mr. Sahil Bhalai, Adv. Mr. Siddharth Anil Khanna, Adv. Mr. Ritik Arora, Adv. Mr. Shivam Mishra, Adv. Mr. Sewa Singh, Adv.

For Respondent(s): Mr. D.S. Parmar, A.A.G. Ms. Mrinal Gopal Elker, AOR Mr. Rajan K Chaurasia, Adv. Mr. Saurabh Singh, Adv. Mr. Aditya Chaudhary, Adv. Ms. Silpi S. Swain, Adv.

ORDER

Leave granted.

The appellant, Vinay Kumar Gupta, is aggrieved by the denial of anticipatory bail by the High Court of Madhya Pradesh at Jabalpur, *vide* order dated 16.09.2025 passed in Misc. Criminal Case No. 37503/2025, in connection with Crime/First Information Report (FIR) No. 453/2025 dated 18.06.2025 registered with Police Station – Semariya, District – Rewa, Madhya Pradesh, for the offences punishable under Sections 8, 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985¹ and Sections 13 and 5 of the Drugs (Control) Act, 1950.

The matter relates to seizure of 710 bottles of cough syrup. However, the appellant, Vinay Kumar Gupta, was not named in the Crime/FIR, though the car from which the contraband was seized belongs to him.

By order dated 15.12.2025, subject to the appellant, Vinay Kumar Gupta, joining and cooperating with the investigation in the aforesaid Crime/FIR, he was granted protection from arrest.

¹ "NDPS Act", for short

Counter affidavit has now been filed by the State of Madhya Pradesh, wherein it is stated that, after the passing of the aforesaid order dated 15.12.2025, the appellant joined the investigation on 02.02.2026 but it is the complaint of the State that he has not handed over his mobile phone. It is for the State to complete the investigation in accordance with due procedure but, in that regard, it cannot insist upon the appellant incriminating himself. Cooperating with the investigation does not extend to violation of the Constitutional right against self-incrimination.

As the appellant, Vinay Kumar Gupta, has joined and is presently cooperating with the investigation, we find no grounds made out for custodial interrogation of the appellant at this stage. Subject to the appellant continuing to cooperate with the investigation, within the limitations prescribed by law, he is entitled to grant of relief.

The appeal is accordingly allowed, setting aside the impugned judgment/order dated 16.09.2025. It is directed that in the event the appellant, Vinay Kumar Gupta, is arrested in relation to the Crime/FIR in question, he shall be released on bail forthwith on such terms and conditions as may be fixed by the trial Court.

The appellant shall also abide by the conditions stipulated in Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

We clarify that we have not made any observations/comments on the merits of the case and any observation made in this order is meant only for the limited purpose of grant of anticipatory bail.

Pending application(s), if any, shall stand disposed of.

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