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

**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 8559 of 2025**

**FOR APPROVAL AND SIGNATURE:**

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

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| Approved for Reporting | Yes | No |
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MANSUKHBHAI @ MANUBHAI VALLABHBHAI BORAD (PATEL)
Versus
STATE OF GUJARAT

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Appearance:
MR BHARAT T RAO(697) for the Applicant(s) No. 1
MS SHRUTI PATHAK, APP for the Respondent(s) No. 1
MR HARSH SHAH ADV FOR THE RESPONDENT NO.2

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

**Date : 27/02/2026**
**ORAL JUDGMENT**

1. Rule. Learned advocates waive service of notice of rule for the respective respondents.

2. By way of the present application the applicant has prayed to quash and set aside the order dated 02.06.2025 passed by the learned 4th Additional Sessions Judge, Gandhinagar at Kalol in Criminal Misc. Application No. 167 of 2025 (Annexure-L), whereby the said application came to be rejected, and to further permit the applicant to visit Canada for the purpose of obtaining permanent residency (P.R.) and to direct temporary release of the applicant's passport.

3. Learned advocate for the applicant submits that against

the present applicant, a complaint being C.R. No. 11216022230049 of 2023 has been registered with Kalol Taluka Police Station for the offences punishable under Sections 394, 395, 397, 120B, 506(2) and 114 of the Indian Penal Code, as well as Section 135 of the Gujarat Police Act. It further submits that the applicant was initially granted anticipatory bail in Criminal Misc. Application No. 70 of 2023 vide order dated 06.02.2023. However, on account of his failure to comply with Condition No. 2(D) imposed therein, the application for releasing passport filed by the applicant came to be rejected. Thereafter, the applicant preferred Criminal Misc. Application No. 2572 of 2025 before this Court seeking anticipatory bail, which came to be allowed vide order dated 05.02.2025. At present, the applicant seeks permission to travel to Canada for the purpose of obtaining Permanent Residency (P.R.) and has prayed for release of his passport for a period of 180 days.

4. Mr. Harsh Shah, learned advocate for the original complainant, has vehemently opposed the grant of the present application. He has submitted that the applicant has not complied with the conditions previously imposed upon him and that the present request is made only to thwart further proceedings before the trial Court. It is contended that the applicant intends to obtain release of his passport in order to flee from justice and settle in Canada. It is further submitted that, if the passport is released, the possibility cannot be ruled out that the applicant may not remain present before the trial Court. Learned advocate has pointed out that even earlier, at the time of grant of anticipatory bail, the applicant failed to comply with

the conditions imposed by the trial Court. Considering his conduct, the trial Court, vide order dated 02.06.2025 passed in Criminal Misc. Application No. 167 of 2025, rejected his request for release of the passport. Attention is drawn to paragraph 6 of the said order, wherein it has been observed that, as per the conditions imposed upon the applicant in Criminal Misc. Application No. 70 of 2023 by the learned Additional Sessions Judge, Kalol, the applicant was required to surrender his passport before the trial Court and was not to leave India without prior permission of the Court. However, the applicant neither surrendered his passport nor obtained prior permission before travelling abroad. Despite repeated orders and warnings issued by the Court, the applicant did not return to India nor surrender his passport for several months. Therefore, it is prayed that the present application be dismissed.

5. Ms. Shruti Pathak, learned APP, has supported the submissions made by the learned advocate for the complainant and has opposed the grant of the present application. She has submitted that, if the passport is released, there is a strong likelihood that the applicant may flee from justice and settle in Canada, as his earlier conduct clearly reflects his intention and actions. Therefore, she has requested that the present application be dismissed.

6. Having heard the learned advocates for the respective parties and upon perusal of the record, it appears that a discharge application has been filed by accused No. 1; however, the present applicant, who is accused No. 2, has not filed any

such discharge application. It further appears that there was some dispute with regard to the observations made by the learned trial Court that, despite repeated orders and warnings issued by the Court, the applicant did not return to India nor surrender his passport for several months.

7. This Court, vide order dated 13.02.2025, called for a report from the learned trial Court regarding the progress of Sessions Case No. 28 of 2024, including a report concerning the participation of accused No. 2 (the present applicant) and the present stage of the trial. The report was also directed to specify how many times accused No. 2 had remained absent and whether any warrants had been issued against him to secure his presence. Pursuant thereto, the Sessions Court has placed its report on record. The sum and substance of the said report submitted by the Sessions Court is that "*Thus the accused persons and complainant side always try to delay the proceeding by same on the other way.*".

8. In view of the above, it appears that the accused alone is not responsible for the delay in the trial, and that the complainant has also contributed to the delay of the proceedings. Therefore, considering the conduct of both the parties, the present petition deserves to be considered, subject to stringent conditions.

9. Considering the aforesaid facts and circumstances, the present application is partly allowed. **Condition No. (2) D** imposed by the learned Additional Sessions Judge, Gandhinagar

at Kalol in Criminal Misc. Application No. 70 of 2023 vide order dated 06.02.2023, namely: "*Shall surrender his passport, if any, before the concerned Court within a week and, in absence thereof, shall file an affidavit declaring the said fact before the learned Trial Court. The applicant shall not leave the country without prior permission of the learned Trial Court.*" is hereby **suspended for the period from 09.03.2026 to 08.06.2026 and the applicant is permitted to visit Canada during the aforesaid period**. The appliant shall surrender his passport before the learned trial Court within two weeks of his return, and in any case not later than 15.06.2026, subject to the following terms and conditions:

> (a) The applicant shall furnish his detailed travel itinerary to the learned Trial Court as well as to the concerned Police Station prior to leaving the country, including the addresses of the places to be visited and the contact telephone numbers and emial address and shall hae to keep active all cell/contact numbers and emial address. He shall also provide all relevant travel documents to the learned Trial Court and the concerned Police Station. The applicant shall not change his local address as well as Canada where he is going to stay during the period of travel without prior intimation to the learned Trial Court.
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> (b) The applicant shall deposit an amount of Rs. 5,00,000/- before the learned Trial Court along with one solvent surety of the like amount. Upon such deposit, the concerned authority shall release the applicant's passport.
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> (c) The learned Trial Court is directed to invest the deposited amount in a Fixed Deposit Receipt (FDR) in any nationalized bank for a period of one year. The applicant shall surrender his passport on or before 15.06.2026. Upon surrender of the passport within the stipulated time, the learned Trial Court

shall release the deposited amount to the applicant along with accrued interest.

(d) During the aforesaid period, the applicant shall mark his presence before the learned Trial Court through his learned advocate and shall not dispute any proceedings conducted in his absence during such period.

(e) The learned Trial Court shall be at liberty to permit the applicant to appear through virtual mode, if his physical presence is required, then he shall have to appear in person before the learned trial Court irrespective of any period gratned by this Court. The applicant shall file an undertaking before the learned Trial Court stating that he shall not challenge or dispute any order passed or proceedings conducted in his absence or through virtual mode during the said period.

(f) In case of breach of any of the above conditions, the complainant shall be at liberty to initiate appropriate proceedings before the learned Trial Court, including proceedings for declaring the applicant as absconding.

10. Rule is made absolute to the above extent. Direct service is permitted.

**(HASMUKH D. SUTHAR,J)**

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ISTAYAK ALI(HC01093), PRIVATE SECRETARY, at High Court of Gujarat on 27/02/2026 17:38:28