IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 13652 of 2026

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KARANBHAI @GAVO S/O. PANKAJBHAI BHARUBHAI RAO

Versus

STATE OF GUJARAT

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Appearance:
MR BM MANGUKIYA(437) for the Applicant(s) No. 1
MS BELA A PRAJAPATI(1946) for the Applicant(s) No. 1
DR. BHAGIRATH N PATEL(9016) for the Respondent(s) No. 1
MR. KISHAN H DAIYA(6929) for the Respondent(s) No. 1
MR HARDIK MEHTA, APP for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 09/10/2026

ORDER

[1.0] RULE. Learned APP waives service of rule for the respondent-State.

[2.0] The present application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with **FIR being C.R. No. 11198067240054 of 2024 registered with Vartej Police Station, Bhavnagar,** for the offences under Sections 302, 396, 342, 325, 323, 504, 506(2), 120B, 201 read with Section 34 of the Indian Penal Code, 135 of the GP Act.

[3.0] Learned Advocate Mr. Mangukiya, appearing for the applicant, submits that the applicant has been falsely implicated in the offence and has nothing to do with the alleged offence. Initially, the applicant was not named in the FIR. The prosecution has cited 78 witnesses, out of whom only 28

witnesses have been examined. The two alleged witnesses and other material witnesses, despite repeated warrants being issued, have remained absent and have not turned up to depose before the Court. Even the Executive Magistrate has not appeared before the Trial Court. It is submitted that the applicant has been implicated as an accused without any material or evidence against him. The applicant was arrested on 03.02.2024. The learned advocate appearing for the applicant submitted that the prosecution was intentionally prolonging the trial. It was further submitted that the witnesses, including the Executive Magistrate, had remained absent and had not turned up despite the issuance of summons and warrants. It was submitted that the defence had extended full cooperation for the expeditious disposal of the trial, even to the extent of leaving the cross-examination of a witness incomplete while the examination of another witness was being conducted simultaneously. It was, therefore, submitted that, despite repeated issuance of summons and warrants, the witnesses had remained absent, resulting in the protraction of the trial. It is, therefore, submitted that the present application may be considered on the ground of delay, without entering into the merits of the case, and the same may be allowed.

[4.0] Learned APP, as well as the learned advocate appearing for the complainant, have opposed the present application on the ground that, though the applicant was not named in the FIR, he was subsequently identified by two witnesses. It is submitted that the present applicant caught hold of the deceased, who was thereafter tied with a wire, and the applicant also assaulted him.

There is one injured eyewitness, and an amount of Rs.1 lakh has been recovered from the present applicant. The total amount of the loot was Rs.1.10 crore. Sufficient evidence has been collected against accused Nos.1 to 6, and the trial is in progress. If the present applicant is released on bail, the possibility of tampering with the evidence cannot be ruled out. Therefore, it is requested that the present application be dismissed.

[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 advocates appearing on behalf of the respective parties and perused the investigation papers. Following aspects have been considered:

(1) Investigation is over and charge-sheet is filed;

(2) Applicant is behind the bar since 03.02.2024;

(3) There is nothing to be recovered or discovered from the applicant;

(4) It appears that initially, the present applicant was not named in the FIR. Subsequently, he was arraigned as an accused and was identified in the test identification parade (TI parade). As per the investigation papers, the role attributed to the present applicant is that he caught hold of one Tulshibhai, who is the deceased, and tied his hands and legs. Accused No.1 had also tied the first informant, Labhubhai Savani, whereas accused No.6 has been attributed the role of tying the legs of the witness, Nileshbhai. Except for tying the hands and legs, no further role has been attributed to or disclosed against the present applicant by the Investigating Officer in the charge-sheet papers. Even if the aforesaid role is accepted as it stands, as per the statement of the eyewitness, Nileshbhai, the present applicant had caught hold of the deceased;

(5) As the learned advocate for the applicant raised a grievance regarding the slow pace of the trial, this Court, vide order dated 23.09.2026, called for a report from the learned Trial Court. In response thereto, the learned APP, upon instructions, submitted that only three witnesses remained to be examined and that the prosecution was not prolonging the trial. Considering the aforesaid

submissions, this Court has examined the report submitted by the learned Sessions Judge as well as the roznama of the case to verify the factual position. It appears that 20 witnesses have been examined and 8 witnesses have been dropped. The witness who conducted the TI parade has not appeared before the Court, as he is facing certain criminal proceedings. Even the complainant and two other eyewitnesses are yet to be examined. The examination of the doctor is over. So far as the allegation regarding tying the deceased's legs with a wire is concerned, the doctor has admitted that no injury was noticed or caused by the metallic wire. In the aforesaid circumstances, a prima facie question arises regarding the nature and extent of the role attributed to the present applicant and the evidence supporting the allegations against him.

(6) Prima facie, this Court is of the considered view that, when the accused is ready and willing to cooperate with the proceedings and seeks expeditious disposal of the trial, the delay occasioned on account of the non-appearance of prosecution witnesses cannot be overlooked.

(7) It further appears from the roznama that, while the cross-examination of witness No.11 remained incomplete, further summons were issued to witnesses Nos.18 and 19; however, they did not turn up and remained absent. Consequently, the trial has proceeded at a snail's pace. It is needless to say that the right to a speedy trial is an

integral part of the right to life and personal liberty of an accused. Considering the period of incarceration undergone by the present applicant, the progress of the trial, the non-appearance of material prosecution witnesses despite the issuance of summons and warrants, and the overall circumstances emerging from the record, this Court is of the view that the present application deserves consideration on the ground of delay, without entering into the merits of the case.

(8) Learned APP has opposed the present application on the ground that the trial is in progress and, in view of the facts and circumstances of the case, the application deserves to be dismissed. It is worth noting that the learned APP has vehemently opposed the application by relying upon ***X v. State of Rajasthan*, 2024 (0) AIJEL-SC 74336**, on the ground that the trial is in progress. Ordinarily, the Court may consider allowing the trial to proceed, particularly in cases involving serious offences. However, the aforesaid dictum is required to be understood in the context of the facts and circumstances of each case. In the present case, the applicant has been in custody for the last 2 years and 9 months, and the trial is proceeding at a snail's pace. The prosecution has cited 78 witnesses, and despite the applicant being ready and willing to cooperate for the expeditious disposal of the trial, the prosecution has failed to secure the presence of the witnesses and ensure the expeditious progress of the trial. Considering the right to a speedy trial guaranteed under

Article 21 of the Constitution of India, the applicant's continued incarceration, in the absence of any fault attributable to him for the delay, raises serious concerns regarding the infringement of his fundamental right. In this regard, reference may be made to ***Vicky alias Vikas Yadav v. Uttar Pradesh*, Special Leave to Appeal (Criminal) No. 9430 of 2026, and *Vaibhav Singh v. State of Uttar Pradesh*, Special Leave to Appeal (Criminal) No. 1416 of 2026**. In view of the aforesaid circumstances, the present application deserves consideration on the ground of delay.

(9) It appears that prosecution is not interested to proceed with the matter and once prosecution is not inclined in expeditious disposal of the trial, prosecution has no right to oppose the bail appeal on merits considering the fundamental right of the accused as regards speedy trial guaranteed under Article 21 of the Constitution of India and and trial is moving at snail's pace and therefore, appellant cannot be kept behind the bars for indefinite period even considering the question of personal liberty under Article 21 of the Constitution of India as laid down by the Apex Court in the case of Union of India vs. **K.A. Najeeb reported in (2021) 3 SCC 713; Mohd. Muslim alias Hussain vs. State (NCT of Delhi) reported in 2023 SCC OnLine SC 352 and Pradeep Kumar @ Banu vs. State of Punjab [SLP (Cri.) No.18775/2025]**.

(10) Prosecution has failed to point out the circumstances

to continue or prolong his incarceration;

(11 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 applicant 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 applicant on regular bail. Hence, the present application is **allowed**. The applicant is ordered to be released on regular bail in connection with **FIR being C.R. No. 11198067240054 of 2024 registered with Vartej Police Station, Bhavnagar,** on executing a personal bond of Rs.25,000/- (Rupees Twenty-five Thousand only) with one surety of the like amount to the satisfaction of the trial Court and

subject to the conditions that he/she 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 State of Gujarat without prior permission of the Trial Court concerned;

(e) mark presence before the concerned Police Station once in every month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) furnish the ***Aadhaar card, email ID/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/contact number*** without prior permission of Trial Court;

(g) not to indulge in any illegal activity failing which learned trial Court shall issue warrant and cancel the bail of the applicant.

(h) not to enter into Bhavnagar District for a period of six months except for marking presence before the concerned police station and/or for attending Court;

[9.0] The authorities will release the applicant only if he is 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.

(HASMUKH D. SUTHAR,J)

ALI

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 09/10/2026 18:13:47