IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 14276 of 2026

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DHARMENDRA @ KADU S/O RAMTEJ NANGU PASI
Versus
STATE OF GUJARAT

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Appearance:
MR. BHAVIK H. JADAV(18681) for the Applicant(s) No. 1
MR ROHAN SHAH, APP for the Respondent(s) No. 1

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

Date : 28/10/2026

ORDER

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

[2.0] [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. 11192002240961 of 2024 registered with Aslali Police Station, Dist. Ahmedabad,** for the offence punishable under Sections 103(1) and 61(2)(a) of BNS read with Sections 135 of the GP Act.

[3.0] Learned advocate appearing on behalf of the applicant submits that applicant is innocent and has been falsely implicated in the offence and now nothing is required to be recovered or discovered. It is submitted that the prosecution has cited a total of 36 witnesses, out of whom only ten witnesses have been examined. Further, he has submitted that the trial in the present case is moving at snail's pace and conclusion of trial will take considerable time and therefore, he has requested to release the applicant on the ground of delay in trial. He therefore submits that, considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

[4.0] Learned APP appearing on behalf of the respondent-State has opposed the present application on the ground that the applicant is involved in a serious offence punishable under Section 103 of the BNS. Considering the nature and gravity of the offence, he has requested this Court to reject the present application for regular bail.

[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 chargesheet has been filed;

(2) applicant is arrested on 17.09.2024;

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

(4) As per the case of prosecution, the present applicant has inflicted knife blow and deceased succumbed to the said injury;

(5) Considering the fact that the present application has been filed on the ground of delay;

[6] Pursuant to the order dated 23.09.2026, this Court called for a

report from the learned Additional Sessions Judge concerned. The learned Principal District, Ahmedabad [Rural], vide communication dated 06.10.2026, forwarded the report dated 05.10.2026 submitted by the learned 7th Additional District Judge, Ahmedabad (Rural) at Navrangpura, wherein, stating that prosecution has cited 39 witnesses, only 10 witnesses have been examined;

[7] Though at the time of deciding the bail application, appreciation of evidence is not permissible, for the limited purpose, as case is based on circumstantial evidence, Court has considered the said submission and even otherwise trial is moving at snail's pace and therefore, applicant 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];**

[8] Without entering into a detailed discussion on the merits of the matter, considering the fact that the material witnesses have already been examined, the applicant has been in custody for the last two years, and the trial is likely to take considerable time to conclude, the present application deserves consideration

[9] Considering the decision rendered in case of **Rameshbhai Batubhai Dabhi vs. State of Gujarat** reported in **(1999) 3 GLR 1150,** on the ground of parity, the present application may be allowed;

[10] Reference is required to be made in decision of the Hon'ble Supreme Court in the case of ***Mahesh Chandra Joshi v. State of Rajasthan***, Criminal Appeal arising out of SLP (Crl.) No.

> 15822 of 2026, **[2026 INSC 1141]**, wherein the Hon'ble Supreme Court observed that the gravity of the allegations, however serious, cannot by itself outweigh all other considerations relevant to the grant of bail or justify indefinite pre-trial detention. The Hon'ble Court further observed that prolonged pre-trial incarceration cannot be permitted to become punishment without trial, in violation of the fundamental right to personal liberty and a speedy trial guaranteed under Article 21 of the Constitution of India. The Court accordingly held that, where further detention is not necessary, the legitimate concerns of the prosecution may be addressed by imposing appropriate conditions while granting bail;

[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 further on merit, *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 **C.R. No. 11192002240961 of 2024 registered with Aslali Police Station, Dist. Ahmedabad,** on executing a

personal bond of Rs.25,000/- (Rupees Twenty-five Thousand only) with one local 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 & 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 territory of Gujarat without prior permission of the Trial Court concerned till trial is over;

(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 p.m.;

(f) furnish the UIDAI Number, Contact Number/s, Passport Number (if he is having the passport), E-mail address and 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 without prior permission of Trial 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)

KUMAR ALOK

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ALOK KUMAR(HC01091), PRIVATE SECRETARY, at High Court of Gujarat on 28/10/2026 17:39:27