IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 16010 of 2026

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RAMSING DAHARIYABHAI RATHWA

Versus

STATE OF GUJARAT

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Appearance:
MR NADEEM B MANSURI(11332) 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] 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 I-C.R. No. 50 of 2019 registered with Raopura Police Station, Vadodara,** for the offences under Sections 302 of the IPC and Section 135 of the GP Act.

[3.0] Learned advocate appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the offence. Nothing is required to be recovered or discovered. 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 and requested to dismiss the present application for regular bail on the ground that the applicant is very much involved in the present offence. It is submitted that the statements of the witnesses have been recorded under Section 164 of the Code of Criminal Procedure, wherein three eyewitnesses have categorically stated that the present applicant had beaten and assaulted the deceased. It is, therefore, submitted that the prima facie involvement of the present applicant is established. Learned APP has further submitted that, considering the past antecedents of the present applicant and the fact that the alleged incident took place while he was in jail, no case is made out for grant of the present application. Accordingly, learned APP has 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 11.01.2026;

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

(4) The impugned offence was registered on 01.06.2019. Initially, the complaint was registered against unknown persons, alleging that the complainant's son had been beaten by unknown persons with a stick on 19th March 2019 and had ultimately succumbed to the injuries sustained by him. The son of the complainant had been arrested on 15th March 2019 in connection with another offence and was in jail when the alleged incident took place. Admittedly, the complaint in respect of the alleged incident was registered on 1st June 2019, after a delay of approximately three months.

(5) Thereafter, the charge-sheet came to be filed on 9th March 2026, alleging that, while the deceased and the present applicant were in jail, a scuffle took place between them, during which the present applicant allegedly assaulted the deceased with a wooden log, resulting in the injuries to which he ultimately succumbed. It appears that the deceased was initially shifted to the jail hospital dispensary and was thereafter

transferred to SSG Hospital, where he was admitted as an indoor patient and subsequently succumbed to his injuries.

(6) In this regard, the statement of the Warden, recorded on the very same day, has been placed on record. The said statement reveals that the deceased had attempted to run away, during which he stumbled, dashed against something, and sustained injuries.

(7) It further appears that the statements of three witnesses serving in Vadodara Jail were recorded approximately six years and seven months after the alleged incident. On perusal of the post-mortem note, the cause of death is stated to be respiratory failure due to pulmonary oedema and haemorrhage resulting from traumatic injuries. However, the question of whether the alleged assault by the present applicant caused the injuries resulting in the death of the deceased would require consideration in light of the evidence available on record, including the substantial delay in recording the statements of the aforesaid witnesses.

(8) Even assuming, for the sake of argument, that the alleged incident took place inside the jail, it is pertinent to note that no jail offence or any other offence appears to have been registered in connection with the alleged incident at the relevant time, nor does it appear that any such incident was reported to the concerned authorities at that stage.

(9) Learned APP has submitted that, after the registration of the Special Criminal Application, an investigation was conducted and a magisterial inquiry was ordered under Section 176 of the Code of Criminal Procedure, pursuant to which the

complaint came to be registered.

(10) Considering the aforesaid facts and circumstances, particularly the delay of approximately three months in registering the complaint against unknown persons and the subsequent recording of the statements of the three witnesses after a period of approximately six years and seven months, this Court is of the view that the present application deserves consideration. This Court refrains from making any further observations on the merits of the case at this stage.

(11) Prosecution has failed to point out the circumstances to continue or prolong his incarceration;

(12) 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/s 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/s on regular bail. Hence, the present application is **allowed**. The applicant/s is/are ordered to be released on regular bail in connection with **FIR being I-C.R. No. 50 of 2019 registered with Raopura Police Station, Vadodara,** 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/they 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.

[9.0] The authorities will release the applicant only if he/they is/are 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/applicants 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 29/10/2026 15:32:03