IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 21364 of 2026

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SHABIRBHAI HANIFBHAI MALEK
Versus
STATE OF GUJARAT

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Appearance:
MR PREMAL S. RACHH for MR. DHYEY M. SHAH(21131) for the Applicant(s) No. 1
MR NANDISH H. THACKAR for MR ASIT B JOSHI(2567) for the Respondent(s) No. 1
MR. MAHEK B. RAVAL(17804) for the Respondent(s) No. 1
MR HK PATEL, AP for the Respondent(s) No. 1

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

Date : 01/10/2026

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.11202056260727 of 2026** registered with **Kalavad Rural Police Station, Jamnagar** for the offences punishable under the 109(1), 115(2), 117(2), 118(1), 189(2), 189(3), 190, 191(1), 191(3), 351(2), 351(3), 352 and 61 of the BNS read with Section 135(1) 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. 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 and learned advocate appearing for the original Complainant have opposed the present application on the ground that CDR is found with the co-accused and present applicant is one of the conspirator. Hence, he requested to dismiss the present application for regular bail looking to the nature and gravity of the offence.

[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) substantial part of investigation is over;

(2) None of the offence alleged is punishable with life sentence or death penalty ;

(3) Applicant is behind the bars since 25.08.2026;

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

(5) Obviously commencement and conclusion of trial will take some time;

(6) present applicant is not named in the FIR, based on the statement of co-accused, he arraigned as an accused;

(7) present applicant was not present at the spot, where the alleged incident took place;

(8) present applicant has not caused any injury to the victim. In

aid of Section 61(2) of the BNS, he arraigned as an accused;

(9) If the facts are accepted as stated, and the injured is out of danger and no injury has been caused to the victim, the present application deserves to be allowed.

(10) No past antecedent is reported against the present applicant;

[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.11202056260727 of 2026 registered with Kalavad Rural Police Station, Jamnagar** 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 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 a week till charge-sheet is filed, thereafter, 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 01/10/2026 14:55:00