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

**R/CRIMINAL APPEAL (REGULAR BAIL) NO. 2312 of 2026**

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VISHAL BHARATBHAI PANCHOLI
Versus
STATE OF GUJARAT & ANR.

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Appearance:
SAJID Y KARIYANIYA(9619) for the Appellant(s) No. 1
MS SHRUTI PATHAK, APP for the Opponent(s)/Respondent(s) No. 1

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

**Date : 07/10/2026**

**ORDER**

1.0] Admit. Learned APP waives service of notice of admission on behalf of the respondent-State.

[2.0] Present appeal is filed under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocity Act") challenging the order dated 28.07.2026 passed by the 3rd Additional Sessions Judge, Morbi in CR.MA(S)1129 OF 2026, whereby the learned Judge rejected the application filed by the present appellant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking regular bail in connection with FIR being **C.R. No.11189003212233 of 2021** registered with **A Division Police Station, Morbi** for the offences punishable under Sections 376(2), 354(a), 323, 504, 506(2) of IPC read with Section 3(2)(5), 3(2)(5-a) and 3(1)(w)(i) of the Scheduled Caste and Scheduled Tribe (Prevention Atrocities) Act.

[3.0] Learned advocate for the appellant submitted that, after the investigation, the charge-sheet was filed and which is registered as Atro Case No.38 of 2021. The appellant filed Criminal Misc. Application No.965 of 2021 before the Special (SC-ST Atrocity) Judge & 2nd Additional Sessions

Judge, Morbi. The learned Additional Sessions Judge, vide order dated 11.11.2021, was pleased to grant bail to the appellant by imposing suitable conditions, which were not complied with by the appellant. He failed to mark his presence and regularly attend the court proceedings. Therefore, a Non-Bailable Warrant came to be issued against him and he was taken into judicial custody. It is also submitted that the appellant is the sole breadwinner of his family and that he had earlier been released on regular bail. It is further submitted that this is his first offence and he will not flee away from the justice and he will regularly attend the court proceedings and comply with any condition imposed by the concerned Court. He, therefore, submits that, considering the nature of the offence, the appellant 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 appeal and requested that the present appeal for regular bail be dismissed, 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 appeal 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.

[6.1] Following aspects have been considered:

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

(2) appellant is arrested on 08.07.2026 ;

(3) It appears that after the investigation, the charge-sheet was filed and which is registered as Atro Case No.38 of 2021. The appellant filed Criminal Misc. Application No.965 of 2021 before the Special (SC-ST Atrocity) Judge & 2nd Additional Sessions Judge, Morbi. The learned Additional Sessions Judge, vide order dated 11.11.2021, was pleased to grant bail to the appellant by imposing suitable conditions, which were not complied with by the appellant. He failed to mark his presence and regularly attend the court proceedings. Therefore, a Non-Bailable Warrant came to be issued against him and he was taken into judicial custody.

(4) Learned advocate for the appellant has given an assurance that the appellant is now ready and willing to mark his presence and regularly attend the court proceedings;

(4) Considering that the appellant had already been granted regular bail and keeping in view the principle of personal liberty, the present appeal deserves to be considered, subject to stringent conditions;

[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 appeal deserves consideration.

[8.0] In the facts and circumstances of the case and considering the nature of the allegations made against the appellant 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 appellant on regular bail. Hence, the present appeal is allowed. The appellant is ordered to be released on regular bail in connection with **FIR being C.R. No.11189003212233 of 2021 registered with A Division Police Station, Morbi** 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 territory of India without prior permission of the Trial Court concerned;

(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/ contact number without prior permission of Trial Court;

*(g) shall file an undertaking stating that he shall regularly attend the Court proceedings and mark his presence. In the event of his absence, the appellant shall, through his advocate, mark his presence, and if the proceedings are conducted in his absence, he shall not dispute the same;*

*(h) The learned Sessions Judge shall be at liberty to impose any other appropriate condition(s), if found necessary, for securing and ensuring the presence of the appellant during the course of the trial;*

[9.0] The authorities will release the appellant 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 appellant on bail.

[12.0] The impugned order dated 28.07.2026 is hereby quashed and set aside. 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 07/10/2026 15:13:08