IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL - AFTER CHARGESHEET) NO. 23355 of 2026

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BHARAT KANTIBHAI SAMECHA

Versus

STATE OF GUJARAT

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Appearance:
PRASHANTKUMAR R SHARMA(8591) 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 C.R.No.11208003260552 of 2026 registered with Gandhigram-2 (University) Police Station, Rajkot City,** for the offences under Sections 69 of BNS, 2023.

[3.0] Learned advocate appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the offence. Investigation is over and charge-sheet has been filed. 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 and considering the gravity of offence, no case is made out to entertain present bail application. If the applicant is released on bail, possibility cannot be ruled out that the applicant will flee from justice. Therefore, present application does not deserve consideration.

[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. As per the case of the victim, accused no.1, who is already enlarged by the Sessions Court, in the pretext of marrying with the victim, has developed physical relations with the victim and it is alleged by the victim that that he has committed rape. It is further alleged that

after accused no.1 abandoned her, present applicant, who is rickshaw driver, has given lift to the victim in the rickshaw and it is alleged that while taking her towards Madhapar chokdi near the railnagar, in the rickshaw, present applicant has committed rape. The said fact is stated in statement recorded under Section 183 of the BNSS, 2023 but in the FIR the said fact is not clearly spelled out and no specific allegations were leveled. In column no.2 of the charge-sheet also, statement recorded under Section 183 of BNSS, 2023 is found false and exaggerated version as noticed by the concerned Investigating Officer. Following aspects have been considered:

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

(2) Applicant is behind the bar since **24/05/2026;**

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

(4) Present applicant is 34 years old and the victim is also major;

(5) The applicant has no past antecedents;

(6) Obviously commencement and conclusion of trial will take its own time;

(7) Prosecution has failed to point out the circumstances to continue or prolong his detention.

[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.11208003260552 of 2026 registered with Gandhigram-2 (University) Police Station, Rajkot City,** 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 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 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)

ILA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ILA PRAFULKUMAR PATEL(HC00194), Principal Pvt Secretary, at High Court of Gujarat on 28/10/2026 15:12:14