IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 23673 of 2026

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BRIJESHBHAI SUKRAMBHAI HATHILA

Versus

STATE OF GUJARAT & ANR.

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Appearance:
MR HEMANT MAKWANA(3622) for the Applicant(s) No. 1
NOTICE SERVED TO CONCERNED POLICE STATION HOWEVER, SERVICE REPORT NOT FILED BY POLICE STATION for the Respondent(s) No. 2
MR ROHAN SHAH, APP for the Respondent(s) No. 1

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

Date : 04/11/2026

ORDER

[1.0] Ms. Krupa S. Sathwara, learned advocate states that he has instructions to appear for the original complainant and seeks to file his appearance. Registry to accept his vakalatnama.

[1.1] **RULE**. Learned APP waives service of rule for the respondent-State. Learned advocate appearing for the original complainant waives service of rule on behalf of the original complainant.

[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.11821008260629 of 2026 registered with Dahod Rural Police Station, Dahod,** for the offences under Sections 137(2), 87, 64(2)(M) of BNS, 2023 and Sections 4, 5(J)(2), 6 of the POCSO 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. 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. Following aspects have been considered:

(1) Substantial investigation is over;

(2) The applicant is 18 years old and the victim was sixteen years, five months and twenty nine days old at the time of the incident;

(3) The applicant and the victim eloped and stayed together.

(4) The applicant is behind the bars since **27/08/2026;**

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

(6) Learned advocate for the original complainant has submitted that the complainant no objection if the applicant is released on bail;

(7) The applicant has no past antecedents;

(8) The Court has perused the statement of the victim annexed at Annexure-B of this application.

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

(10) 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.11821008260629 of 2026 registered with Dahod Rural Police Station, Dahod,** 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 a week till filing of the chargesheet and after filing of the chargesheet, mark presence before the concerned police

station once in a month for a period of six months;

(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.

(h) not to contact or try to contact directly or indirectly the complainant/victim/witnesses connected with the offence;

[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 04/11/2026 16:37:20