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

**R/CRIMINAL MISC. APPLICATION (FOR SUCCESSIVE REGULAR BAIL - AFTER CHARGESHEET) NO.22703 of 2026**

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NITABEN W/O KAYABHAI RAMBHAI GADH

Versus

STATE OF GUJARAT

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Appearance:
MR. MAULIK M SONI(7249) for the Applicant(s) No. 1
MR. TRUPESH KATHIRIYA, APP for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE M. R. MENGDEY**

**Date : 30/10/2026**

**ORDER**

1. The applicant has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for enlarging the applicant on regular bail in connection with FIR being CR. No.11218009230339 of 2023 registered with Kamlabag Police Station, Porbandar.

2. Rule. Learned APP waives service of notice of Rule on behalf of the Respondent – State.

3. Learned Advocate appearing for the applicant has submitted that the applicant has good reputation in the society and no useful purpose would be served by keeping the applicant in Jail for indefinite period. It is further contended that the applicant is ready and willing to abide by all the conditions that may be imposed by this Court if released on bail.

4. Per contra, learned APP has opposed the present application contending that the earlier application preferred by the applicant, being Criminal Misc. Application No.1281 of 2025, was dismissed by this Court vide order dated 07.03.2025. While dismissing the said application, this Court had taken into

consideration the role played by the present applicant in commission of the offense. This being the successive application thereafter, and there being no change in circumstances, the present application is not maintainable. He further submitted that the applicant was having an affair with the other co-accused, and because of the same, the incident allegedly had taken place wherein the deceased, i.e. the husband of the present applicant, was burned to death. He, therefore, submitted to dismiss the present application.

5. Heard learned Advocates for the parties and perused the record. In the present offence, the investigation is over and charge-sheet has been filed. As noted above, the earlier application filed by the applicant was dismissed by this Court vide order dated 07.03.2025. Thereafter, the present successive application has been filed by the present applicant. The applicant has been arrested in connection with the present offense on 24.05.2023 and since then she is in custody. This Court vide order dated 16.10.2026 had called for the report from the concerned Trial Court as regards the status of trial. The report submitted by the learned Trial Court indicates that out of 50 witnesses cited by prosecution, 22 witnesses have been examined as yet and 24 witnesses are yet to be examined. Having regard to this fact, the trial of the offense is not likely to conclude in the near future. Having regard to these aspects, and so also the fact that the applicant is a lady who is in custody since last more than 3 years, the present application deserves consideration, hence the present application is hereby allowed. This Court has also considered the following aspects:

(a) As per catena of decisions of Hon’ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. prima-facie case, availability of Applicant accused at the time of trial and tampering and hampering with the witnesses by the accused.

(b) That the learned Advocate for the Applicant has submitted that the Applicant Accused is not likely to flee away.

(c) That the Applicant is in custody since 24.05.2023.

(d) The law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. C.B.I.** reported in **(2012) 1 SCC 40.**

6. Having heard the learned Advocates for the parties and perusing the record produced in this case as well as taking into consideration the facts of the case, nature of allegations, gravity of accusation, availability of the applicant accused at the time of Trial etc. and the role attributed to the present applicant accused, the present application deserves to be allowed and accordingly stands allowed. This Court has also gone through the FIR and police papers and also the earlier order passed by the learned Sessions Court where the learned Sessions Judge has disallowed the bail Application at initial stage. The applicant accused is ordered to be released on bail in connection with the aforesaid FIR on executing a personal bond of Rs.10,000/- with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions that she shall:

(a) not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer or tamper with the evidence;

(b) maintain law and order and not to indulge in any criminal activities;

(c) furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change the residence without prior permission of the trial Court;

(d) provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in

writing immediately to the trial Court;

(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 pm;

(f) file an affidavit stating his immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any;

(g) not leave India without prior permission of the Trial Court;

(h) surrender passport, if any, to the Trial Court within a week. If the applicant does not possess passport, shall file an Affidavit to that effect.

7. Bail bond to be executed before the Trial Court having jurisdiction to try the case. It would be open for the Trial Court concerned to give time to furnish the solvency certificate if prayed for.

8. If breach of any of the above conditions is committed, the Trial Court concerned will be free to issue warrant or take appropriate action according to law. The Authorities will release the Applicant forthwith only if the Applicant is not required in connection with any other offence for the time being.

9. At the trial, the concerned trial Court shall not be influenced by the prima-facie observations made by this Court in the present order.

10. Rule is made absolute. Direct service permitted.

**(M. R. MENGDEY,J)**

RAVI OZA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: RAVI OZA(HCW0111), ENGLISH STENOGRAPHER GRADE ONE, at High Court of Gujarat on 02/11/2026 10:38:49