IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 22937 of 2026

==========

JUNED AHMED JABHA

Versus

STATE OF GUJARAT

==========

Appearance:
MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1
MR HIMANSHU K PATEL, APP for the Respondent(s) No. 1

==========

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.11207002250559 of 2025** registered with **Godhara 'B' Division Police Station, District Panchmahal** for the offences punishable under Sections 189(2), 189(3), 189(5), 190, 191(2), 192, 195, 326(g), 121(1), 329(3), 132, 324(5), 3(5), 352, 61(2)(a), 310(2), 152 and 238(a) of the Bharatiya Nyaya Sanhita, 2023 (for short "BNS") and under Sections 3 and 4 of Prevention of Damage to Public Properties Act.

[3.0] The brief facts of the case are that the accused no.1 – Zakir Ahmed Zabha had made viral a controversial post on social media, in which he is seen holding a banner with the contents, "I Love Mohammed". He himself exposed the banner in a public place and the post went viral. After this incident, on 17.09.2025, the accused no.1 went to Kalol to meet one Tanveer Sheikh, who had also made one viral video on Instagram with the contents that whether the girl says yes or no we are going to stalk her in Navrati. Thereafter, the Police Inspector, Godhra Town B Division Police Station had called the accused no.1 to explain him that he should not post or make viral

any such post which spoils religious harmony, as there is Navratri festival. The CCTV footage of this meeting is also placed alongwith this record in which it is clearly visible that the accused is sitting in the police station, wherein, he was gently treated he was also offered tea/coffee. The accused also posted in the local Muslim Whatsapp group stating that he was beaten by the police regarding the Mohammed Saheb post and thereby he had instigated and misled the members of Muslim community. As such about 300 to 400 members of Muslim community had gathered immediately near the police station and also entered into the police station and raised provocative slogan and gathered mob protested in the name of religion. Such type of slogans are raised by extremists and these slogans were used by the accused and other accused persons to instigate the other members of unlawful assembly for committing such type of anti social act. Some members of the mob even entered into the chamber of the Police Inspector and created violence, they have damaged the furniture, CCTV cameras, wireless system as well as other belongings of the police station.

[4.0] 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. The complaint was filed against 88 accused and there was a mob of 200-300 people. The Co-accused are released on bail by the coordinate Bench. The allegation against the applicant is that his presence is noted in the CCTV footage and after mob was dispersed the applicant went to the police station and destroyed the police papers. Except this no role is attributed to the applicant. The applicant has no past antecedents. Investigation is over and chargesheet has been filed. He therefore submits that, considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

[5.0] Learned APP appearing on behalf of the respondent-State has opposed the present application and requested to dismiss the present

application for regular bail looking to the nature and gravity of the offence.

[6.0] 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.

[7.0] 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) Applicant is behind the bars since **24.07.2026**;

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

(4) Though the applicant is having one past antecedent, he is presumed to be innocent till proven guilty;

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

(6) Co-accused similarly situated enlarged on regular bail and therefore, on the ground of parity also ***(Rameshbhai Batubhai Dhabi Vs. State of Gujarat reported in 2011 (3) GLR 1999)***,

present application deserves consideration.

[8.0] 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.

[9.0] 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.11207002250559 of 2025** registered with **Godhara 'B' Division Police Station, District Panchmahal** 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 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 ***copy of Aadhaar card, email ID/contact number / permanent 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 and contact number/SIM card*** 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.

[10.0] 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.

[11.0] 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.

[12.0] 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.

[13.0] Rule is made absolute to the aforesaid extent. Direct service is permitted.

(HASMUKH D. SUTHAR, J.)

Ajay

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 01/10/2026 15:12:23