IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 23721 of 2026

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BASIRBHAI HABIBBHAI SAMA

Versus

STATE OF GUJARAT

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Appearance:
M S PADALIYA(7406) for the Applicant(s) No. 1
MR. MAHEK B. RAVAL(17804) for the Respondent(s) No. 1
MS. SHRUTI PATHAK, APP for the Respondent(s) No. 1

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

Date : 26/10/2026

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.I-11202056260727 of 2026 registered with Kalawad Rural Police Station, District-Jamnagar,** for the offences under Sections 109(1), 115(2), 117(2), 118(1), 189(2), 189(3), 190, 191(1), 191(3), 351(2), 351(3), 351(4), 352, 61 of BNS-2023 and Section 135(1) of G.P. 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. Substantial part of investigation is over. Nothing is required to be

recovered or discovered. The applicant has past antecedent. 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. Chargesheet is yet to be filed. Further, the applicant is having past antecedent and if he is released on bail, possibility cannot be ruled out that the applicant will flee from justice and tamper with the evidence. Therefore, present application does not deserve consideration.

[5.0] Learned Advocate Mr. Mahek B. Raval appearing for the complainant has opposed the application on ground that the applicant has past antecedent and if he will release on bail, he will taken advantange and tampering the evidence.

[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) Charge-sheet is filed;

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

(3) Applicant is behind the bar since 23.08.2026;

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

(5) Present applicant has caused injury to the complainant. The complainant is out of danger and discharged from the hospital;

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

[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.I-11202056260727 of 2026 registered with Kalawad Rural Police Station, District-Jamnagar** 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 enter into District-Jamnagar for a period of six months except for marking presence before the concerned police station and/or for attending Court;

(i) Not to contact or try to contact directly or indirectly the complainant/victim/witnesses connected with the offence.

[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)

PARESH SOMPURA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PARESHKUMAR SOMPURA(HC00451), Principal Pvt Secretary, at High Court of Gujarat on 26/10/2026 14:37:44