IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 23934 of 2026

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BHAGABHAI GUNABHAI PARMAR (NAME AS PER ORDER OF LEARNED SESSIONS COURT)

Versus

STATE OF GUJARAT

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Appearance:
MR SATYAJIT S SONAGARA(12218) for the Applicant(s) No. 1
MR. HARISINGH SODHA(17638) for the Respondent(s) No. 1
MR MEET THAKKAR, APP for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 29/10/2026

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 Nyaya Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with FIR being **C.R.No.11189003251580 of 2025 registered with "A" Division Morbi City Police Station, Morbi** for the offence punishable under Sections 103(1), 118(1), 115(2), 189(2), 191(2), 191(3) and 190 of the BNS and Section 135 of the GP Act.

[3.0] Learned advocate appearing on behalf of the applicant submits that applicant is innocent and has been falsely implicated in the offence. It is submitted that, as per the case of the prosecution, when the father of the deceased intervened in the alleged scuffle, at that time, he was assaulted with a stick. Except for this, no role is attributed to the present applicant for causing

any injury to the deceased. Therefore, no case is made out against the present applicant for invoking Section 103 of the BNS. It is further submitted that the injured witness is out of danger. It is also submitted that two co-accused have been released on bail by the Co-ordinate Bench of this Court. Considering the nature of the offence, the applicant may be enlarged on regular bail by imposing stringent conditions.

[4.0] Learned APP appearing on behalf of the respondent-State and learned advocate appearing on behalf of the original complainant have vehemently opposed the present application on the ground that the present applicant, on the pretext of compromise, came to the spot armed with a deadly weapon and assaulted the complainant. In the said scuffle, one person lost his life and the witness sustained injuries. If he is released on bail, the possibility of tampering with the evidence cannot be ruled out.

[4.1] It is further submitted that the present applicant does not have any permanent address. He is residing in a slum area, and in the absence of any permanent address, if he is released on bail, the possibility of his not remaining present during the trial cannot be ruled out. Hence, application does not deserve any 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. In present case, following aspects have been considered:

(1) Investigation is over and charge-sheet is filed;
(2) Applicant is behind the bars since **28.08.2025;**
(3) None of the offence alleged is punishable with life sentence or death penalty;
(4) Nothing is required to be recovered and discovered from him;
(5) Commencement of trial will take its own time;
(6) It appears that the present applicant has cause any injury to the deceased and not played any active role;
(7) The alleged incident occurred in connection with one person namely Vaghela who is known to both the complainant and the accused persons. It is alleged that Raningbhai Hirabhai's daughter had eloped with someone, and thereafter, all concerned persons had gathered for the purpose of socially resolving the dispute. During the course of such gathering, the alleged incident took place;
(8) It is alleged that one Shanker alias Chaku assaulted the deceased with a knife, as a result of which she succumbed to the injuries. It is further alleged that when the father of the

deceased intervened in the said scuffle, the present applicant allegedly assaulted him with a stick.

(9) Present applicant has not caused any injury to the deceased and he has caused injury to one Gabhabhai. The injured person is stated to be discharged from the hospital and out of danger;

(10) Co-accused having similarly situated role are 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;

(11) Considering the limited role attributed to the present applicant and the nature of allegations levelled against him, the present application deserves consideration;

(12) Insofar as apprehension raised by the learned APP is concerned if he released on bail, possibility cannot be ruled out to stand to the trial, in this regard stringent condition is required to be imposed.

[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.11189003251580 of 2025 registered with "A" Division Morbi City Police Station, Morbi,** 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 a fortnight for a period of six months between 11.00 a.m. and 2.00 p.m.;
(f) ***Furnish the UIDAI Number, Contact Number/s, Passport Number (if he is having the passport), simcard, E-mail address 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 without prior permission of Trial Court;***
(g) not leave Morbi District for three months except for marking presence and /or attending the court proceedings;

[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 29/10/2026 14:35:56