IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 24904 of 2026

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YAKUB AAMAD CHELA & ORS.

Versus

STATE OF GUJARAT

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Appearance:
DARSHAN M VARANDANI(7357) for the Applicant(s) No. 1,2,3
MR PRAVIN GONDALIYA(1974) for the Respondent(s) No. 1
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] **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.11993013260252 of 2026** registered with **Kandla Marine Police Station, Kachchh-East Gandhidham** for the offences punishable under Sections 109(1), 189(4), 190, 191(3), 296(b) and 351(3) of the Bharatiya Nyaya Sanhita, 2023 (for short "BNS") and Section 135 of the Gujarat Police Act.

[3.0] Learned advocate appearing on behalf of the applicants submits that applicants are innocent and has been falsely implicated in the offence and now nothing is required to be recovered or discovered. He therefore submits that,

considering the nature of the offence, the applicants 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 looking to the nature and gravity of the offence.

[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) The allegation against the applicants, as per the case of

the prosecution, is that alleged incident took place in two parts i.e. (i) present applicants along with co-accused armed with sticks came at the spot at that time however, no assault is made and (ii) after leaving the place, once again accused persons came in car and thereafter, got down from the car armed with weapons, hurled abusive language and again left the place and once again with common object all accused came in two vehicles i.e. SCORPIO being driven by co-accused Anwar, who is not before this Court and another vehicle VENUE being driven by co-accused Rashid who is also not before this Court. It is alleged that present applicants sat in the car. It is further alleged that both cars tried to ran over on the witnesses and the complainant. However, no specific role is attributed to any of the applicant having driven car or active participation in the offence. If submissions made by learned advocate Mr.Pravin Gondaliya for the original complainant are accepted as it is, only the presence of the present applicants is found in the vehicle/s but no any overtact on the part of any applicant even though there was unlawful assembly they had not caused any injury. Further, the victims are out of danger and are discharged from the hospital.

(2) Applicants are behind the bars since 27.09.2026;

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

(4) two of the applicants are having three and and two past antecedents which are over and there is no past antecedent as regards one of the applicants and no circumstance does exist to protect incarceration of the present applicants.

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

[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 applicants 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 applicants on regular bail. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in

connection with **C.R. No.11993013260252 of 2026** registered with **Kandla Marine Police Station, Kachchh-East Gandhidham** on executing a personal bond of Rs.25,000/- (Rupees Twenty-five Thousand only) each with one surety each of the like amount to the satisfaction of the trial Court and subject to the conditions that they 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) 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.

[9.0] The authorities will release the applicants only if they are 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)

MISHRA AMIT V.

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AMIT VISHNUPRASAD MISHRA(HC00187), Principal Pvt. Secretary, at High Court of Gujarat on 04/11/2026 16:32:42