



Received on 02/06/2026
 Registered on 02/06/2026
 Decided on 08/06/2026
 Duration Y.00 M.00 D.07

IN THE HON'BLE COURT OF 3RD ADDL. SESSIONS JUDGE
 KHEDA AT NADIAD

CRIMINAL MISC. APPLICATION NO.613 OF 2026

Exh.: 7

APPLICANT :~

Bhikhabhai Parsottambhai Patel
 Age: 70 Yrs.,
 Residence: Ramaji Mandirvalu Faliyu,
 Mu.: Vathvali, Ta.: Mahemdavad, Dist.: Kheda.

Versus

Respondent :~

State of Gujarat

For the Applicant	:	Ld.Advocate Mr. D.S. Brahmbhatt
For the Respondent	:	Ld. D.G.P. Mr. D.R. Barot

**Application u/S.483 of Bharatiya Nagarik Suraksha Sanhita
 2023 (Sec. 439 of Cr.P.C.)**

:- JUDGMENT :-

(1) Applicant, Bhikhabhai Parsottambhai Patel has preferred present application for regular bail for the offences registered against him with Mahemdavad Police Station, bearing I.C.R.No. 11204041260018/2026 for the offence u/Ss.318(2),324(3), 324(5), 329(3) 336(2)(3), 338, 340(2) and 61(2)(a) of the Bhartiya Nyay Sanhita, 2023 and Section 3 of the Prevention of Damages of Public Property Act.

(2) The short facts of the complaint are that :

The First Informant namely Piyush Govanbhai Deshmukh working as an Executive Engineer, Mahudha

Irrigation Department has lodged the complaint and in his complaint stated that the said land was acquired in the year 1979 by paying compensation and that the houses of Irrigation Department were constructed at the said land. It is further stated that the Department colony was not used for a long time and as it was not in use the colony was in a dilapidated situation. It is further alleged that as the colony was not repaired for a long time and taking the advantage of the situation, all the accused persons inherited the land by cheating and that obtained the compensation illegally and that the said colony was demolished without taking any prior permission of the Government. It is alleged that the Orig. Accused No. 1 to 6 inherited the land in their name and in connivance with each other to gain monetary benefit and along with Orig. Accused No.7 cause loss to Government property and that further sold the land to Orig. Accused No.8 by way of a Registered sale deed and in this way all the accused have committed an offence, hence, complainant has filed F.I.R. against the present applicants.

- (3) Notice in pursuance to present application was issued to the respondent-state, and on service of notice, Ld.PP appeared on behalf of the state.
- (4) Investigating officer has filed his affidavit, objecting release of the applicants on bail, vide Exh.6.
- (5) Ld.Advocate for the applicant has submitted that he is innocent and has not committed any offence as alleged against him and no prima facie case has been made out against him as no any name of the applicant has been mentioned in the complaint only on beyond reasonable

doubt he was arrested. He has only made signature on the pedigree as witness. The present applicant has been wrongly implicated in the said offence. There is no allegation made against the present applicant of submitting false documents or making false declarations or making false affidavits. Further, he has not obtained any amount as benefits in the said case. Only on the basis of trust as neighbour he has made signature. The present case is related to documentary evidence and all the documentary evidence is currently in police custody, so there is no need for judicial custody of the present applicant nor is there any possibility of tampering with the evidence. The present applicant has no criminal history. The accused is permanently residing at the address mentioned in the application not run away. He is not likely to tamper with the evidence and are ready to cooperate with the police investigation whenever and however necessary. He has stated that charge-sheet has already been filed and his custodial interrogation has already been completed and there is no question for more recovery and discovery. The Hon'ble High Court of Gujarat has granted bail to the other co-accused Ghanshyamgiri Balgiri Gosai of the said offence in Cr. Misc. Application No.11700/2026 and same offence has been registered against him also and both have made signature as witnesses on the pedigree hence, on the ground of law of parity also he has been granted bail. He has further submitted that he has no past antecedents and he is ready & willing to abide by the conditions that may be imposed by the court. Hence, present application be allowed.

In support of his arguments the Ld.Advocate for the applicant has produced Judgment of Hon'ble High Court of Gujarat in case of ***(1) R/Criminal Misc. Application (For Regular Bail -After Charge sheet) No.11700 of 2026 in case of Ghanshyamgiri Balgiri Gosai @ Goswami Versus State of Gujarat*** ***(2) Criminal Misc. Application No.1475 of 2022 in case of Rameshbhai Batubhai Dhabhi Versus State of Gujarat.***

(6) I.O. i.e. P.I. of Mahemdavad Police Station, in its affidavit vide Exh.6 states that the present applicant is the permanent resident of the Vathvali and he is the neighbour of Accuse Nos. 4 to 7 and he was very well known the accused since many years. In Succession Mutation Entry No. 7308, dated 30/11/2024, the land in Block No. 836 was registered against Accused No.(01), and in such Mutation entry he transferred on his one son namely, Ankitbhai S/o. Chandrakant Mohanbhai Patel, which was also hidden, and Succession Mutation Entry No.7308, dated 30/11/2024, and entered him as an heir on the basis of that pedigree and thereby defrauding with the Irrigation Department. The accused has committed an offence by creating false documents and using them as genuine, thereby causing damage to the department and obtaining financial benefit of Rs. 44,88,000/- and on the said false pedigree the present applicant has made signature as witness and helped the accused for doing the above said offence. Keeping this in mind, he has given opinion that applicant/accused should not be granted bail in the interest of justice.

(7) Ld.P.P. submits that when the applicants' involvement in the serious crime is established, no case is made out as would entitle the applicant to the relief's sought. It is also submitted that there is likelihood of tempering with the

evidence as well as threatening the complainant hence, considering all these aspects, the present application is required to be rejected.

(8) Heard Ld. Advocate for the Applicant/Accused as well as Ld.P.P. for the State and also perused the Police papers and Affidavit, very minutely. It is not in dispute that the FIR has been registered for the offence u/Ss.318(2), 324(3), 324(5), 329(3) 336(2)(3), 338, 340(2) and 61(2)(a) of the Bhartiya Nyay Sanhita, 2023 and Section 3 of the Prevention of Damages of Public Property Act registered vide I.C.R.No. 11204041260018/2026 at Mahemdavad Police Station. But nowhere his name has been mentioned in the FIR. Further, the Hon'ble High Court of Gujarat has granted bail for the co-accused in ***R/Criminal Misc. Application (For Regular Bail -After Charge sheet) No.11700 of 2026***, who has committed same offence and considered the following aspects;

- (A) *That the role attributed to the present applicant in the impugned FIR is that he signed as a witness in the pedhinama wherein the owner has suppressed the existence of one son who was specially-abled child.*
- (B) *That investigation is concluded. Chargesheet is filed. Investigating papers suggest that the applicant did not get any monetary gain out of the transactions.*
- (C) *That the applicant is in custody since 25.02.2026.*
- (D) *That the age of the applicant is 69 years.*
- (E) *That trial will take its own time.*

Further, in ***Criminal Misc. Application No.1475 of 2022*** the Hon'ble High Court of Gujarat has also considered that; "though, two orders granting bail available or any effort was made learned Sessions Judge, it is held that ground of parity can be claimed by co-accused passed by

the High Court were brought to the notice of the co-accused only before the High Court. That, in the set of facts and circumstances almost similar or identical, when superior courts exercise the powers either under Sections 438 or 439 of the Code, the subordinate Courts are duty bound to consider the same and apply if the same sets of facts are in existences and unless there being any extra ordinary circumstances or striking dissimilarities exist to deviate from the law of parity, the Courts below should consider the same in accordance with law."

- (9) Hence, Considering the aspects of the Hon'ble High Court of Gujarat and further the role, nature and gravity of accusation as well as ground mentioned in the captioned Bail Application that the present applicant is also 70 years old and the role attributed to the present applicant in the impugned FIR is that he signed as a witness in the Pedigree wherein the owner has suppressed the existence of one son who was specially-abled child. Further, investigation is concluded. Charge sheet is filed. Investigating papers suggest that the applicant did not get any monetary gain out of the transactions and the Applicant/Accused shall not flee from justice, hence, on the ground of parity, he may be released on Bail. Further, looking to the copy of Affidavit at Exh.6, prima facie it transpires that there was no direct involvement of the present applicant in the above said offence and in the affidavit also it is mentioned that all the documentary evidence is currently in police custody and orig. accused has also been arrested and is in the judicial Custody and most of the investigation has been completed. Moreover, this case is triable by J.M.F.C. Court.

As per Judgment of Hon'ble Supreme Court of India reported in **2012 (1) G.L.H. 93 in the case of Sanjay Chandra V/s. C.B.I.**, wherein it is stated that "*whether the refusal to grant bail and pre-trial detention of the accused infringes on their right to liberty under Article 21. Also this Court by referring to various earlier decisions of this Court pointed out certain matters to be considered by the Court while using their discretion in granting bail in non-bailable .*"

- (10) 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. That Applicant/Accused has given assurance that he will abide by all the conditions, if granted Regular Bail. He also appears to be permanent resident of the Address mentioned in the Bail Order. Hence, in the light of all these, this is a fit case of *law of parity*, in which Applicant/Accused can be granted Regular Bail with strict conditions, thus, the present Bail Application succeeds and following order is passed.

:- ORDER :-

- [1] Cr. Misc. Application No.613/2026 file under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (Sec. 439 of Cr.P.C), is hereby **ALLOWED**.
- [2] Let the Applicant, Bhikhabhai Parsottambhai Patel be released on bail, for the offences registered against him with Mahemdavad Police Station, bearing I.C.R.No. 11204041260018/2026 for the offence u/Ss.318(2),324(3), 324(5), 329(3) 336(2)(3), 338, 340(2) and 61(2)(a) of the

Bhartiya Nyay Sanhita, 2023 and Section 3 of the Prevention of Damages of Public Property Act, on executing the Personal Bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of like amount; subject to following terms and conditions:~

The Applicant shall -

- (1) Furnish his permanent residential Address to the Investigation Officer and this Court, and shall not change his address without prior permission of the Trial Court.
 - (2) Co-operate with the Investigation Agency.
 - (3) Not threaten the witnesses, complainant or tempering with the evidence.
 - (4) Deposit the passport before Trial Court, if he is having, and if, he has no passport, then, he has to file an Affidavit to that effect before Trial Court within three days of their release.
 - (5) Not leave the territorial limit of Gujarat without prior permission of Trial Court.
 - (6) Not act in a manner injurious to the interest of the prosecution.
- [3] A copy of this Order shall be furnished to the concerned Jailer Authority and the Jailer is hereby directed to furnish the same, to the concerned accused.
- [4] The Bail Bond shall be executed before Trial Court.

Signed and Pronounced in open court on 8th Day of June, 2026.

Date:08/06/2026

Place: Nadiad

(MUKESHKUMAR JAYANTILAL BRAHMBHATT)

3rd Additional Sessions Judge

Kheda at Nadiad

Code No.GJ00754