

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, Dehgam
Order below Bail application in Rakhial Police Station CR No.
11216012260002 of 2020 of CRMA/J 150/2026.

Complainant: State of Gujarat

Vs.

Accused/ Applicant: Sukhlal @ Sakaji S/o Ruplal Navaji Dangi
Age :- 36, Resi: Ghansa noliona, nira faliyu,
Ta. Ghansa, Dist. Udaipur, Rajasthan.

- (1). This is an application filed by the accused-applicant for seeking bail in connection with an offences punishable under Section 65(A), 65(E), 116-B, 98(2) of the Gujarat Prohibition Act registered at Rakhial Police Station CR 11216012260002 of 2020.
- (2). The Ld. Adv. S.R.Panchal for the accused-applicant submitted that the accuses are innocent and falsely involved in the said offence. Hence, prays to allowed this application.
- (3). Heard the A.P.P. he contended that there is huge quantity of prohibited liquor involved in the said offence. Hence, prays to reject this application.
- (4). Looking to the FIR and material perused, it appears to the court that prima facie case is made out against the accused. While deciding such application it is important to see that an application for bail is well settled and an application should not be dismissed merely on the ground that prima facie case is made out against the accused. The other factors like seriousness of an offence committed, antecedents of accused, presence of accused at the time of trial, maximum punishment that may be imposed to accused in charged offences, tempering with investigation and hamperin

witnesses are to be considered. Furthermore, even when a prima facie case is made out against the accused; the accused shall not be detained as a punishment but also it is essential for the court to measure whether the presence of the accused will be readily available during the trial or he is likely to be fled away during the trial. In view of the well settled bail jurisprudence prevailing in India settled by a catena of decisions of the Hon'ble Supreme Court of India and various Hon'ble High Courts of India that the power to grant bail is not to be exercised as if the punishment before trial is being imposed.

- (5). However, it is also well settled that under the criminal laws of this country; a person accused of offences which are non-bailable offence, is liable to be detained in custody during pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article-21 of the Constitution of India, since the same is authorised by law. The charges leveled against the accused are with respect to non bailable offence. In view of Section-119 of Gujarat Prohibition Act wherein it is provided that the offences under section-65 is non-bailable offence.
- (6). Further in this regard it is required to see para-4 of the Gujarat ordinance No.7 of 2016 which reads as under:

4. Amendment of Section 65 of Bom.XXV of 1949:- in the principal Act, in section-65,-

(i) in clause(e), for the words "sells or buys", the words "possesses, transports, sells or buys" shall be substituted;

(ii) for the portion beginning with the words "shall, on conviction" and ending with the words "also with fine", the following portion and the proviso thereunder shall be substituted, namely:-

" shall on conviction, be punished for each such offence

with imprisonment for a term which may extend to ten years and with fine which may extend to five lakh rupees ".....

Provided that, in absence of special adequate reasons to the contrary to be mentioned in the judgment of the court-

For the first offence, such imprisonment shall not be less than two years and fine shall not be less than one lakh rupees;

For the Second offence, such imprisonment shall not be less than three years and fine shall not be less than two lakh rupees;

For the third offence, such imprisonment shall not be less than seven years and fine shall not be less than five lakh rupees;....

- (7). Before discussing rival contentions of this application, it is required to note here that at this stage this court is deciding only bail application. As held by Hon'ble Gujarat High Court reported in 2002(3) GLR page 2288 that while deciding bail application as far as possible the court should keep itself away from discussing the material in detail and giving its verdict on merits.
- (8). Looking to the record of this case the allegation against the accused for the offence under section-65 (A) as well as section-65 (E) and read the amended act made by the government of gujarat, in the said offence imprisonment may extend to ten years and with fine which may extend to five lakh rupees.

Further looking at the contentions raised by the Ld. Advocate it is the subject of trial and as discussed above in the above mentioned judgement Hon'ble High court held that while deciding bail application as far as possible the court should keep itself away from discussing the material in detail and giving its verdict on merits. Further looking to the gravity

of the offence and the fact of the case and looking to the record, this court is of the view that if the accused can be released on bail, it will be harmful in the act to stop social, economical and moral deterioration of society.

(9). Under such circumstances and aforesaid reasons, the discretionary power may not be exercised in favour of the accused. In view of the aforesaid discussion, this court is declined to grant this application for bail. So in view of the aforesaid reasons, this Court hereby passes the following order in the interest of justice.

::Order::

The application for bail filed by the accused-applicant **Sukhlal @ Sakaji S/o Ruplal Navaji Dangi** is hereby rejected.

Date:29/06/2026
Place:Dehgam

(Harmya Mehul Doshi)
GJ01661
Addl.Civil Judge and JMFC,
Dehgam.