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**IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS
JUDGE, AHMEDABAD (RURAL)**

CRIMINAL MISC. APPLICATION NO. 686 OF 2026

Exh.

APPLICANT/ACCUSED:

Siddharth S/o Bhupendra Rayal
Age: 40 years,
Residing at : 80, Arcus Skycity, Shela, Ahmedabad.
(Presently in Judicial Custody at Central Jail, Ahmedabad)

V/s.

OPPONENT :

The State of Gujarat

Sub:Application under Section 483 of The Bhartiya Nagrik Suraksha Sanhita, 2023 seeking regular bail before chargesheet.

Appearance:

Mr.D.S.Gadhvi, Learned Advocate for Applicant/accused.

Mr.P.M.Trivedi, Learned Public Prosecutor for Opponent/The State.

-: J U D G M E N T :-

1. The applicant-accused has preferred this regular bail application u/s. 483 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (hereinafter referred as 'BNSS') in connection with offence registered vide Part-A C.R. No.11191042250328/2025 registered with Satellite Police Station, Ahmedabad for the offences

punishable u/s 318(2), 318(4) of The Bhartiya Nyaya Sanhita, 2023 (hereinafter referred as 'BNS'), Section 3 of The Gujarat Protection of Interest of Depositors (In Financial Establishment) Act, 2003 (hereinafter referred as 'GPID Act') seeking regular bail before chargesheet.

2. Ld. Advocate Mr.D.S.Gadhvi appearing for the applicant / accused submits that the applicant is innocent and has not committed any offence as stated in the FIR. At the outset, Ld. Advocate has raised grounds to release the applicant on following counts;

- The offence alleged against the applicant–accused provides maximum punishment upto 7 years. As per Section 35(3) of The BNSS (Original Section 41A of Cr.P.C.) and the landmark decision in case of *Arnesh Kumar Vs. State of Bihar*, the Police is duty bound to issue notice of appearance and the arrest in such case must be exception and not the rule. The I.O. has failed to record any reasons for arrest.
- The accused after his arrest is required to be produced before the Jurisdictional Magistrate within 24 hours time limit. The applicant was apprehended by the Police on 05/03/2026 around 6.30 p.m., the formal arrest was recorded on 06/03/2026 in the evening and he was produced before the Hon'ble Court on 07/03/2026 which is clear violation of mandatory safeguard provided under Section 50A of Cr.P.C. (Section 48 of the BNSS), Article 22(1), 22(2) of The Constitution of India and as per the decision of the Hon'ble Apex Court in case of "*Mihir*

Rajesh Shah Vs State of Maharashtra and Another (2025)” and “*Vihaan Kumar Vs. State of Haryana 2025 Criminal Appeal No. of 2025 (Arising out of Special Leave to Petition (Crl.) No.13320 of 2024)*” . By raising the above contention it is urged that the applicant is required to be released immediately on the above grounds.

- It is further submitted that on merits, the FIR is filed after delay of 3 years. The transaction is purely of Civil and Commercial nature and is given colour of criminality. The applicant is neither proprietor or a partner in Silicon Wealth Management Firm. The firm was of proprietorship of applicant’s father – Bhupendra Amrita Lal Raval in which the alleged investment is alleged to have been made by the complainant. As the applicant’s father – Bhupendrabhai Raval passed away on 16/03/2024, the complainant has filed this FIR against the present applicant after delay of three years and on passing of applicant’s father which raises serious suspicion against the complainant’s version. The basic ingredients of offence of cheating is not made out as held in case of “*Shailesh Kumar Singh alias Shailesh R. Singh Vs. State of Uttar Pradesh & Ors. Criminal Appeal No.2963/2025*”. It is accordingly urged to release the applicant on merit as well as on the ground of non-compliance of mandatory statutory provisions.

2.1 The applicant is a permanent resident of Gujarat and has deep roots in the society and therefore, if he is enlarged on bail, he is not likely to flee or abscond from the clutches of law. It is

submitted that the applicant will abide by any stringent conditions that may be imposed upon while exercising discretion in his favour. It is accordingly urged to allow present application. In support of his arguments, Ld. Advocate for the applicant has relied on following judgments.

- i. Sanjay Chandra Vs. CBI; (2012) 1 SCC 40.
- ii. Directorate of Enforcement Vs. Subhash Sharma; Criminal Appeal No. of 2025 [@ Special Leave Petition (Criminal) No.1136/2023].

3. Ld. Public Prosecutor Mr.P.M.Trivedi appearing on behalf of the opponent - State has opposed the grant of regular bail to the applicant. He submits that applicant is charged for the offence u/s 318(2), 318(4) of The BNS, Section 3 of The GPID Act. As per the prosecution case the owners of Silicon Wealth Management namely Siddharthbhai Bhupendra Raval and Payal W/o Siddharth Raval had received an amount of Rs.40,00,000/- from the complainant and witnesses as investment by offering high returns on investment. After collecting the said amount, the accused persons have not paid or returned the amount of investment by them and thereby, the offence is committed by the accused persons. The say of the applicant that the firm belongs to the father is misconceived as it was the present applicant who has received Rs.10,00,000/- in his account and Rs.30,00,000/- in cash and therefore, he cannot say that he has not received any money.

3.1 He has further submitted that, the contention with regard to mandatory compliance of statutory provisions, the accused was apprehended by Crime Branch on 05/03/2026 around 20:00

hours as per the provisions of Section 35(1) of The BNSS. Crime Branch had informed the Satellite Police Station on 05/03/2026 around 23:05 hours by way of vardhi. The said vardhi received by Satellite Police Station was forwarded to the I.O. around 23:11 hours on his whatsapp by PSO of Satellite Police Station. The I.O. had accordingly went to Crime Branch for getting the custody of the accused and he got the case papers and physical custody of the accused was taken on 06/03/2026 around 12:00 hours and returned back to the Police Station around 15:06 hours. The accused was permitted to visit his advocate and mother and thereafter, notice was issued to him under Section 35(3) of the BNSS. The procedure under Section 47 & 48 of the BNSS was completed and around 17:15 hours on 06/03/2026, the accused was arrested. On 07/03/2026 around 15:30 hours, he was taken to V.S.Hospital for medical examination and thereafter, was produced before the Jurisdictional Court. The report of the above details is produced vide Exh.6 by the I.O. It is the say of the Ld. Public Prosecutor on behalf of the I.O. that the accused was produced before the Hon'ble Court within time limit and therefore, he could not be released on the alleged breach of procedural safeguard. Ld. Public Prosecutor has placed reliance on the affidavit filed by the I.O. vide Exh.5 and report (Exh.6) filed by the I.O. and has urged to reject the application.

4. Heard the learned Advocates for the respective parties. The Court has gone through the bail application, documents annexed with it, affidavit of the I.O. (Exh.5), report of the I.O. (Exh.6), judgments relied on and record of the case. It is clarified that the observations made by this Court are prima facie and tentative in

nature and is confined for deciding this bail application and it will have no relevance during the trial. Following factors are taken into consideration while deciding this bail application:-

i) The applicant is charged for the offence under Section 318(2), 318(4) of The BNS, Section 3 of The GPID Act.

ii) As per the prosecution case, from June 2022 to 24/10/2025 Siddharthbhai Bhupendrabhai Raval and Payal wife of Siddharth Raval the owners of firms named Silicon Wealth Management and Silicon Real Estate lured the complainant and witness - Deepakbhai Ramanbhai Shah with the temptation of high returns. By engaging them in sweet talk and gaining their trust and confidence, the accused visited the complainant's residence where, they obtained Rs.20,00,000/- from the complainant and Rs.20,00,000/- from the witness Deepakbhai Shah, amounting to a total of Rs.40,00,000/-. Subsequently, they failed to return the agreed-upon interest (returns) or the principal amount obtained from the complainant, thereby committing the offence of criminal breach of trust and fraud against the complainant and thereby, the FIR came to be registered against the accused persons.

iii) As the Ld. Advocate appearing on behalf of applicant – accused has raised issue with regard to non-production of the accused within mandatory period of 24 hours before the Jurisdictional Magistrate and the same is violative of Article 22(2) of The Constitution of India and therefore, the applicant - accused is required to be released on bail, the same is required to be dealt with at the first instance. It would be relevant to refer

Article 22(2) of The Constitution of India and Section 58 of The BNSS, for the purpose to decide the contention raised on behalf of accused as mentioned hereinabove:

*“22. Protection against arrest and detention in certain cases.-
(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.*

58. Person arrested not to be detained more than twenty-four hours. No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 187, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, whether having jurisdiction or not.”

iv) The Hon'ble Apex Court in case of **“Directorate of Enforcement Vs. Subhash Sharma”** Criminal Appeal No. of 2025 [@ Special Leave Petition (Criminal) No.1136/2023], judgment dated 21/01/2025 had considered the issue with regard to non-production of the arrested person within 24 hours before the nearest Magistrate renders the arrest illegal, as a result of violation of Clause 2 of Article 22 of the Constitution of India. It is held that non-production of the accused before the nearest Magistrate within stipulated time of 24 hours is completely illegal and it infringes fundamental right under Clause 2 of Article 22 of the Constitution of India. In Para 8 of the said decision, the Hon'ble Apex Court has recorded as under:

“8. Once a Court, while dealing with a bail application, finds that the fundamental rights of the accused under Articles 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on

bail. The reason is that the arrest in such cases stands vitiated. It is the duty of every Court to uphold the fundamental rights guaranteed under Articles 21 and 22 of the Constitution.”

v) Keeping in mind the provisions of Section 58 of The BNSS and Article 22(2) of The Constitution of India and the case law referred hereinabove, the factual aspect is required to be ascertained as to whether the accused was produced before the nearest Magistrate within 24 hours or not.

- Applicant – accused was apprehended by Crime Branch on 05/03/2026 around 20:00 hrs as per Section 35(1) of the BNSS.
- Crime Branch had informed Satellite Police Station by Vardhi dated 05/03/2026 around 23:05 hrs. The vardhi from Satellite PSO was forwarded towards I.O. of this case around 23:11 hours on same day through whatsapp.
- On **06/03/2026** around **11:16 hours** the I.O. had gone to Crime Branch office at Gayekwad Haveli Police Station to get the case papers and possession of accused. He took physical custody of accused around **12:00 hours on 06/03/2026**.
- Surprisingly, the I.O. after getting physical custody from the Crime Branch took almost 3 hours to reach Satellite Police Station around **15:06 hours on 06/03/2026**, though the Crime Branch at Gayekwad Haveli and Satellite Police Station are at a short distance within Ahmedabad City.
- Arrest memo of the accused mentions time of arrest of accused as **17:15 hours on 06/03/2026**.
- Accused was produced before the jurisdictional court on the next day on **07/03/2026 around 16:55 hours**.

- Admittedly, the case papers, arrest memo, case diary reveals that the physical custody of the accused was taken by the I.O. from Crime Branch at **12:00 hours on 06/03/2026**.
- As per the production memo, the accused was produced on **16:55 hours on 07/03/2026** before the jurisdictional court.

vi) In view of the decision in case of ***Directorate of Enforcement Vs. Subhash Sharma (supra)*** the period of 24 hours commences as soon as the physical custody is taken by the I.O. who is investigating the offence from the other agency who has apprehended the accused and the accused is required to be produced within 24 hours to the nearest magistrate.

vii) In the present case, as noted hereinabove the accused's physical custody was taken by the I.O. who is investigating the present case at 12:00 hours on 06/03/2026. The period of 24 hours starts commencing from that point of time and he was required to be produced before the jurisdictional court on or before 12:00 hours on 07/03/2026. The accused having produced at 16:55 hours on 07/03/2026 renders his arrest illegal being violation of Clause 2 of Article 22 of the Constitution of India. As held in the case of ***Directorate of Enforcement Vs. Subhash Sharma (supra)*** when the arrest is illegal or is vitiated, bail cannot be denied on the ground of non-fulfillment of twin tests under Section 45 of PMLA and applying the said principle, the accused is required to be released on bail by imposing stringent conditions and accordingly, following order is passed in the interest of justice.

-: ORDER :-

1. The regular bail application of applicant - accused is **allowed**.
2. Applicant/accused – **Siddharth S/o Bhupendra Raval** is hereby ordered to be enlarged on regular bail in connection with offence being Part–A C.R. No.11191042250328/2025 registered with Satellite Police Station, Ahmedabad for the offence punishable u/s. 318(2), 318(4) of The Bharatiya Nyaya Sanhita, 2023, Section 3 of The Gujarat Protection of Interest of Depositors (In Financial Establishment) Act, 2003, on furnishing personal bond of **Rs.10,000/- (Ten Thousand Rupees only)** and surety of like amount before this court on following conditions:
 - (a) Applicant/accused shall remain present before the concerned Police Station on **15th and 30th date** of every month between 11:00 AM to 02:00 PM till chargesheet is filed;
 - (b) Applicant/accused shall not leave India without prior permission of the Court;
 - (c) Applicant/accused shall not involve in identical or any other offence in future;
 - (d) Applicant/accused shall not tamper with the evidence or influence the witnesses;
 - (e) Applicant/accused shall furnish his present and permanent correct address and contact numbers to the court at the time of executing bail bond and shall also furnish the same to the Investigating Officer and shall not change the same without prior permission of the Court;
 - (f) Applicant/accused shall make himself available for interrogation by Investigating Officer as and whenever required;

- (g) Applicant/accused shall also surrender his passport, if any, else shall make necessary affidavit;
- (h) Applicant/accused shall not take undue advantage of liberty or misuse liberty;
3. Bail bond to be executed before this Court and yadi be send accordingly.
4. Copy of this order be send to the concerned police station and Jail Authority.
5. Copy of this order be forwarded to the Commissioner of Police, Ahmedabad City and Superintendent of Police, Ahmedabad (Rural) for their knowledge and to take steps to ensure that the Police Stations falling under their respective jurisdiction shall ensure strict compliance of mandatory requirement under Article 22 of the Constitution of India and as per the mandate given by the Hon'ble Apex Court in case of "*Vihaan Kumar Vs. State of Haryana 2025 INSC 162*" and in case of "*Directorate of Enforcement Vs. Subhash Sharma*" Criminal Appeal No. of 2025 [@ Special Leave Petition (Criminal) No.1136/2023], judgment dated 21/01/2025.

Pronounced and signed in the open court today.

Date :18/03/2026
Place:Ahmedabad

(Kamal M. Sojitra)
Principal District & Sessions Judge &
Designated Special Judge (GPID)
Ahmedabad (Rural)
U.I.Code No.GJ01494