

IN THE COURT OF 5th ADDITIONAL SESSIONS JUDGE, AHMEDABAD[R]

Criminal Misc. Application No.700 of 2026

Exh.

Applicants/

Accused:

(1) **Sanjay @ Chaddi Laxmanbhai Thakor**

Age : 26 years, Occupation : Labour work,

(2) **Bharat @ Bibli Babuji Thakor**

Age : 33 years, Occupation : Labour work,

Both Residents of : Maganlalni chali, Near Bakra mandi,
Maganpura, Ranip, Ahmedabad.

(At present : in judicial custody)

VERSUS

Opponents :

1. The State of Gujarat

to be served through

Learned District Government Prosecutor

at District & Sessions Court, Ahmedabad.

2. The original complainant

APPEARANCE

Learned Advocate for the applicant. : Mr. H. S. Parmar

Learned D.G.P. on behalf of the State. : Mr. P. M. Trivedi

Subject : Application for regular bail under section 483 of Bharatiya
Nagarik Suraksha Sanhita.

JUDGEMENT

- (1) The present applicants have filed present bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, seeking regular bail in connection with the FIR bearing Part - A C.R. No.11191002250060/2025, lodged with Ranip Police Station, Ahmedabad for the offence punishable u/s. 103(1), 117(2), 137(2), 109, 351(2), 54, 189(2), 191(3), 190 of B.N.S., Section 3(2)(5), 3(2)(5a), 3(1)(s) of the Atrocity Act and Section 135 of G.P. Act.

- (2) The learned advocate representing the applicants has argued that the applicants were arrested on 19/02/2025 and 20/02/2025 and were remanded to judicial custody up to 21/02/2025. Thereafter, Applicant No.1 preferred Regular Bail Applications being Criminal Misc. Application Nos. 1224/2025 and 1558/2025 along with Interim Bail Application No. 395/2025 before this Hon'ble Court, all of which came to be rejected. Subsequently, a Regular Bail Application being Criminal Misc. Application No. 2810/2025 was filed before the Hon'ble High Court of Gujarat, which was withdrawn on 23/12/2025. Similarly, the present applicants preferred Regular Bail Applications being Criminal Misc. Application Nos. 1546/2025 and 3364/2025 before this Hon'ble Court, which were rejected, whereas Interim Bail Application No. 3148/2025 was allowed. Thereafter, Regular Bail Applications being Criminal Misc. Application No. 2018/2025 and Criminal Misc.

Application No. 439/2026 were filed before the Hon'ble High Court of Gujarat, both of which were withdrawn on 08/09/2025 and 02/03/2026 respectively. After filing of the charge-sheet and upon examining the same, the present application is preferred on account of change in circumstances. It is contended that at the time of arrest, the Investigating Officer failed to comply with the mandatory provisions of Sections 47 and 48 of the BNSS (corresponding to Section 50 Cr.P.C.) and Article 22(1) of the Constitution, as no written grounds of arrest were furnished to the applicants, in violation of the law laid down by the Hon'ble Supreme Court in *Mihir Rajesh Shah vs. State of Maharashtra & Others*. The applicants have been in judicial custody for more than one year, the investigation is complete, and the charge-sheet has been filed, while the trial is likely to take considerable time. The applicants are young, have family responsibilities, are permanent residents possessing movable and immovable properties, and there is no likelihood of absconding or tampering with evidence. They are ready and willing to comply with all conditions and furnish bail as directed. Therefore, it is prayed that the applicants be released on regular bail in connection with the said offence.

- (3) The learned DGP has submitted that the regular bail applications of the present applicants have already been rejected on merits by this Hon'ble Court. It is further contended that the applicants have once

again approached this Court solely on the ground of alleged non-compliance with Sections 47 and 48 of the BNSS. In this regard, reliance has been placed on the judgment in ***Mihir Rajesh Shah vs. State of Maharashtra***; however, it is argued that the said judgment cannot be applied retrospectively to the present case. On these grounds, it is prayed that the present applicants are not entitled to be released on regular bail.

The original complainant herself is present before the court and she has given her written objections on record vide Exh.8. Where it is stated that the present bail application is filed on the ground of alleged non-compliance with Sections 47 and 48 of the BNSS and violation of Article 22(1) of the Constitution; however, these grounds existed since the date of arrest and were already considered and rejected by this Hon'ble Court in earlier bail applications, and thus no new circumstance has arisen. Both applicants have repeatedly approached this Hon'ble Court and the Hon'ble Gujarat High Court each filing bail applications twice which were either rejected or withdrawn, despite raising similar contentions. The reliance placed on the judgments in *Mihir Rajesh Shah vs. State of Maharashtra* and *Shivam Chaursiya vs. State of U.P.* is misconceived, as those decisions were rendered in writ and habeas corpus jurisdiction, and any alleged violation of constitutional rights ought to have been challenged by filing appropriate

writ petitions before the Hon'ble High Court or Supreme Court, not in a bail application under Section 483 BNSS (Section 439 Cr.P.C.). Moreover, no such grievance regarding violation of rights was raised at the time of arrest, during remand, or in earlier bail proceedings, even after the said judgment was delivered. As per the law laid down, in exceptional circumstances particularly in offences against the body oral communication of grounds of arrest is sufficient, and in the present case, the accused were duly informed, arrest memos were prepared and signed, relatives were notified, and remand was sought with reasons, indicating due compliance. The applicants have been charge-sheeted with sufficient evidence on record, and their present contention is a belated attempt to misuse legal provisions only to secure bail. Accepting such grounds at this stage would prejudice the prosecution and open floodgates for similar claims. Hence, in absence of any new ground or merit, the present bail application deserves to be rejected.

- (4) I have heard the learned advocates for both sides and have carefully perused the affidavit filed by the Investigating Officer, the present bail application, as well as the investigation papers placed on record. Upon consideration of the record, it transpires that both the applicants had earlier preferred regular bail applications before this Court, the particulars of which are duly reflected in the present application itself. It

further appears that the bail applications preferred before the Hon'ble High Court of Gujarat were withdrawn by the applicants. Thus, it is an admitted position that the earlier bail applications of the applicants came to be rejected on merits. The present application is, therefore, a successive bail application founded primarily on the contention that the Investigating Agency has failed to comply with the mandatory provisions of Sections 47 and 48 of the BNSS. Reliance is placed upon the principles laid down in *Mihir Rajesh Shah vs. State of Maharashtra*, wherein it has been held that the grounds of arrest must be furnished in writing to the accused, and non-compliance thereof vitiates the arrest and entitles the accused to be released. In this context, the affidavit filed by the Investigating Officer assumes significance. A perusal thereof reveals that it is an admitted position that the applicants were informed about the grounds of arrest only orally and their signatures were obtained accordingly. There is no assertion or material to indicate that the grounds of arrest were communicated to the applicants in writing. This position is further corroborated by the original case papers, which do not disclose any proof of written communication of the grounds of arrest to the applicants. The judgment in *Mihir Rajesh Shah vs. State of Maharashtra*, relied upon by the applicants, clearly lays down that the grounds of arrest must be communicated in writing to the arrestee, in a language understood by him, within a reasonable time and ideally prior to production before the

Magistrate for remand proceedings. Further, as per paragraph 56(iv) of the said judgment, non-compliance of this requirement renders the arrest and subsequent remand illegal, thereby entitling the accused to be set at liberty. In the present case, the material on record unequivocally establishes that the grounds of arrest were not furnished in writing to the applicants. The Investigating Officer herself admits that only oral intimation was given. Thus, there is a clear breach of the mandatory provisions. The learned Public Prosecutor has contended that the ratio of the aforesaid judgment cannot be applied retrospectively. However, such contention does not merit acceptance, as the requirement of informing the grounds of arrest is rooted in the fundamental right to personal liberty and has always been an integral part of procedural safeguards under criminal law. I have also considered the objections raised by the original complainant. However, once a fundamental procedural illegality affecting the constitutional rights of the accused is brought to the notice of the Court, the Court is duty-bound to address the same and cannot disregard it on technical grounds such as non-retrospective application. In view of the above discussion, this Court is satisfied that the applicants have been able to demonstrate a substantial change in circumstances, namely, non-compliance with the mandatory provisions of Sections 47 and 48 of the BNSS. Consequently, the applicants are entitled to be released. Hence, I pass the following order:

-: O R D E R :-

- [1] The present Bail Application is hereby **allowed**.
- [2] The applicants/accused **Sanjay @ Chaddi Laxmanbhai Thakor** and **Bharat @ Bibli Babuji Thakor**, are hereby ordered to be released on regular bail in connection with FIR bearing Part - A C.R. No.11191002250060/2025, lodged with Ranip Police Station, Ahmedabad for the offence punishable u/s. 103(1), 117(2), 137(2), 109, 351(2), 54, 189(2), 191(3), 190 of B.N.S., Section 3(2)(5), 3(2)(5a), 3(1)(s) of the Atrocity Act and Section 135 of G.P. Act, on furnishing personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) by each applicant - accused and surety of like amount, before the trial Court subject to following conditions:
- (1) Applicants/accused shall furnish their respective permanent residential address along with proof and their respective contact numbers before the Court and to the I.O. of concerned Police Station and in case of any change therein, they shall immediately inform to the Police and shall declare their respective new address in writing before the Court at the earliest.
 - (2) Both the accused shall remain present regularly before the Court. Both the accused shall not, either directly or indirectly, influence, threaten, assault, or act in any manner that may

intimidate the witnesses, or cause fear, harm, or injury to the complainant or their family members.

- (3) The applicants/accused shall not take undue advantage of their liberty.
- (4) The applicants/ accused shall not indulge in any criminal activity.

[3] Yadi be sent to the concerned Police Station and concerned trial court.

Signed & Pronounced in the open Court today on this 02nd day of April, 2026.

Date : 02/04/2026.
Place: Ahmedabad

(Mr. Advait Surendra Vyas)
5th Additional Sessions Judge,
(Unique ID Code: GJ00709)

R.R.Dave, PS