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| Registered on | 06.03.2026                          |
| Decided on    | 12.03.2026                          |
| Duration      | <u>Y</u> <u>M</u> <u>D</u><br>0 0 6 |

**IN THE COURT OF 6<sup>TH</sup> ADDITIONAL SESSIONS JUDGE  
AHMEDABAD [RURAL] @ VIRAMGAM.**

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**Criminal Misc. Application No.84 OF 2026**  
**Exh. \_\_\_\_\_**

**Applicant :**

**Gautamchand @ Gautamchandra**  
**S/o. Bhagchand Nenulal Khatik**  
Aged : 27 years, Occup.: Driving  
At present : Shilaj Road,  
Nr. Sadhi Mata Temple, Thol,  
Tal.: Kadi, Dist.: Mahesana  
Original R/o. : Kaladeh, Tal.: Bhim,  
Dist.: Rajsamand, Rajasthan  
(At present in Central Jail, Sabarmati)

**Vs.**

**Opponents :**

- (1) The State of Gujarat**  
**(2) Rizwankhan S/o. Gulabkhan Pathan**

**Appearance:-**

Mr. M. M. Patel, learned Advocate for the applicant.  
Mr. H. R. Solanki, learned APP for the Opponent – State.

**Application for Regular bail Under Sec. 483 of**  
**The Bhartiya Nagarik Suraksha Sanhita.**

## **JUDGMENT**

1. The present application is preferred for successive regular bail under Section Sec. 483 of The Bhartiya Nagarik Suraksha Sanhita for the offences punishable under Sec.136(1)A of Indian Electricity Act and Section 317(4), 61(2) of BNS in the crime registered vide Part-B, C.R. No.11192060250649/2025 with Viramgam Rural Police Station.
  
2. Heard the Learned Advocate for the applicant/accused. It is stated that the present application has been filed after filing of charge-sheet. He has argued that applicant is innocent and falsely implicated in the offence. It is submitted that complainant has filed false complaint. He further argued that no recovery or discovery is pending from the applicant. Further, the offence was committed on 23.12.2025-24.12.2025 however, the complainant has filed complaint on 29.12.2025. Therefore, the complainant has filed late complaint. Further, the name of the accused is not mentioned in FIR. Further, the applicant is only earning members of his family. The offence is triable by JMFC. Further, the investigation is over and charge-sheet has been filed. Thus, if the applicant is not released on bail, he would suffer pre-trial conviction. He further argued that applicant is ready to abide the conditions which may impose by the Hon'ble Court. He further argued that if the applicant will not be released on bail

then applicant would suffer pretrial conviction. Hence, he request to release him on bail.

3. In pursuance of the notice, Learned APP Shri H. R. Solanki has opposed this application and argued that the applicants/accused have been involved in the serious offence. It is submitted that applicant along with co-accused had theft 11 KV electric aluminum wire and other electric wires – approx length 1.3k.m. total worth Rs.47,500/-. Further, the co-accused is yet to be arrested. Further, the investigation is over and charge-sheet has been filed, thus, if the applicant is released on bail, it would cause negative impact on the society. There is a prima facie case against the applicant. It is further argued that if applicant is granted bail then there is a possibility that he will engage in similar type of crime again. Therefore, the Learned A.P.P. has prayed to reject present application.

4. The complainant is appeared before this court and filed objection against the present application. He submitted that the applicant along with co-accused has cut the electric wires from the electric poles. The muddamal is recovered from the accused. Further, from when the applicant arrested in the offence, no other offence has been occurred. The applicant has theft the electric wires for their financial benefits. Further, the investigation is over and charge-sheet has been filed. If,

the applicant is released on bail, he might engage in similar type of crime or might flee away which would affect the case of the prosecution. Thus, he prayed to reject the present application.

5. Considered the provision of law, arguments from the respective parties, affidavit of I.O. and legal directive principles settled by the Hon'ble Supreme Court and Hon'ble Gujarat High Court and also considered the following points;
  - (a) This is the successive regular bail application filed by the applicant before this court after filing of charge-sheet.
  - (b) The applicant is charged for the offence under Sec.136(1)A of Indian Electricity Act and Section 317(4), 61(2) of BNS.
  - (c) As per the affidavit of IO, it transpires that applicant along with co-accused had theft 11 KV electric aluminum wire and other electric wires – approx length 1.3k.m. total worth Rs.47,500/-. Further, the co-accused is yet to be arrested
  - (d) Thus, there is prima-facie case against the applicant and the applicant has played active role in the commission of offence.
  - (f) However, except filing of charge-sheet, the Ld. advocate for the applicant could not point out any change in circumstance. Under these circumstance, principles laid down in following judgment applies to the facts of this matter:

**VIRUPAKSHAPPA GOUDA Vs. STATE OF KARNATAKA  
AND ANOTHER, SUPREME COURT OF INDIA, (2017)0  
Supreme (SC)2974**

**(a) Code of Criminal Procedure, 1973- Section 439-  
Subsequent application for bail-Change of circumstances-  
Filing of Charge sheet is not change of circumstances-Does  
not lessen allegations made by the prosecution- Trial court  
oblivious of pendency os SLP against rejection of second bail  
application- Principal of innocence of accused till he is found  
guilty cannot be sole consideration for granting bail- There  
has to be application of mind.(Para 13,14,15)**

From above principles, it is clear that mere filing of charge-sheet cannot be considered to be change in circumstance and hence this subsequent bail application does not lessen the gravity of the offence alleged by the prosecution. Therefore, also the applicant is not entitled to bail. But filing of the charge-sheet itself clearly made out prima facie case against the accused.

**(g)** The possibility of repetition of such type of crime can not be ruled out and also possibility to flee from trial or might tampered the witnesses can not be ruled out.

In view of the above facts and circumstances of the case, prima facie case against the applicant/accused and looking to the gravity of the offence, role of the applicant, police papers, I am of the view that the present applicant/accused is not

entitled to get regular bail and therefore, I am not exercising the discretion in favour of the applicant/accused and accordingly, following order is passed.

**ORDER**

The present bail application preferred by the applicant/accused **Gautamchand @ Gautamchandra S/o. Bhagchand Nenulal Khatik** is hereby rejected.

Signed and pronounced in the open Court on 12<sup>th</sup> day of March, 2026.

**Date : 12/03/2026**

**Place : Viramgam.**

**[ H. A. Upadhyay]**

6<sup>th</sup> Additional Sessions Judge,  
Ahmedabad [Rural] at Viramgam.  
[UIC No. GJ00635]