



**IN THE COURT OF HON'BLE ADDITIONAL DISTRICT &
SESSIONS JUDGE, AHMEDBAD [RURAL] AT DHOLKA.**

Criminal Miscellaneous Application No.74/2026

Exh.

Applicant/accused : Navghanbhai Zababhai Parmar(Devipujak)
Age:23 years, R/o: Devipujak Vas,
Dhanwada, Taluka-Bavla, District-
Ahmedabad.

V e r s u s

Opponent : **The State of Gujarat**
[Notice to be served through
the Office of the Public Prosecutor
District & Sessions Court at Dholka,
Ahmedabad].

Subject:An Application for Regular Bail under the provision of
Section 483 of B.N.S.S., 2023 after filing of Charge
Sheet[successive].

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Appearances:-

Learned Advocate Ms. T.M. Mandaliya for the Applicant-accused.
Learned AGP Mr. J.C. Patel, for the Opponent-State.

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-:-ORDER:-

1. After filing of the charge-sheet, the applicant-accused has preferred this application for regular bail under the provisions of Section 483 of B.N.S.S., 2023 in connection with FIR being **C. R. No.11192008210603/2021** registered with **Bavla** Police Station for the Offences Punishable U/s **302, 504 & 188** of the Indian Penal Code.
2. On service of notice, the Ld. Public Prosecutor for the State Mr. J.C. Patel appeared before the Court and filed affidavit of the

Investigating Officer at Exh.5, wherein, the Investigating Officer has submitted the at length facts of the alleged offence and role attributed to the present applicant-accused in the commission of alleged offence and prayed to reject the application of the applicant/accused.

3. Heard the Ld. Advocate for the applicant-accused and Ld. Public Prosecutor for the State on the facts and provisions of law.
4. The Ld. Advocate for the applicant has submitted at length facts of the alleged offence and vehemently argued that the applicant is innocent and he has not committed any offence as alleged in the F.I.R. It is further argued that there is no direct or indirect role of the present applicant in the alleged offence but the applicant has been falsely implicated in the alleged offence. It is mainly argued that in the present case, the investigation has already been concluded, the charge-sheet has been filed before the Hon'ble Court and the case is registered as Sessions Case No.7/2022 and therefore, there is no chance of hampering or tampering with the prosecution witnesses and evidences. It is further submitted that the applicant is in judicial custody from 17.09.2021 and as the applicant has not committed any offence and the trial would take long time, therefore, if the applicant may not be enlarged on bail, it would amount to pre-trial conviction. There is no criminal antecedents of the applicant. It is further submitted that applicant's father has expired and applicant's widow mother is residing alone and his mother is suffering from many disease and presently no one in his family to look after his old aged mother. It is further submitted that on

earlier occasions, he has been enlarged on temporary bail for the limited period and he never breached any condition of the bail and therefore, looking to the long pendency of the case, if the applicant may be enlarged on regular bail, the applicant can take care of his old aged mother. The Ld. Advocate for the applicant has placed heavily reliance upon the ratio laid down by the Hon'ble Apex Court and Hon'ble High Courts and argued on the principle of bail is rule and jail is an exception. It is further submitted that the applicant is the permanent resident of the address mentioned in the cause title and the applicant is in judicial custody since last more than five years therefore, if the present applicant may not be enlarged on bail, it would amount to pre-trial conviction. It is further argued that the applicant is not likely to flee away from justice or tamper/hamper with the prosecution witnesses and evidences. It is further argued that the applicant is ready and willing to abide by all the terms and conditions in the event of he is being enlarged on bail and with the above submissions, the Ld. Advocate for the applicant has prayed to allow the present application.

5. *Per-contra*, the Ld. AGP for the State has strongly objected the present application and reiterated the facts of the affidavit filed by the I.O. at Exh.5 and role attributed to the present applicant-accused in the commission of alleged offence and vehemently argued that present applicant/accused has committed very serious offence. It is further submitted that by keeping some earlier grievance, the applicant/accused has scuffled with the deceased-Pratapbhai @ Gadabhai and used abusive filthy

language and exchanged bitter words and during the scuffle, applicant/accused has brutally inflicted haphazard knife blows upon the neck of deceased as well as other parts of the body of the deceased and thereby, deceased succumbed due to the fatal injuries and thereby, the applicant/accused has committed very heinous crime. It is further submitted that applicant/accused and complainant are residing in the same vicinity and if applicant/accused may enlarged on regular bail, applicant/accused is likely to put in danger to the complainant by keeping grievance of the present case and there is every possibility to tamper and/or hamper with the prosecution witnesses and evidence. It is further submitted that this is successive bail application of the applicant/accused and his previous bail applications were rejected by this Hon'ble court by considering the gravity of offence and at present applicant/accused has again filed the present application therefore, though this bail application is after filing of the charge-sheet, but the applicant-accused is not entitled to get the regular bail as prayed for. It is further argued that considering the role attributed to the present applicant-accused, prima-facie case is made out against the present applicant-accused and therefore, considering the seriousness and gravity offence, the present bail application is required to be rejected.

6. I have gone through the application, Charge-Sheet Papers, affidavit filed by the I.O. and arguments advanced by both the sides. It prima-facie appears from the record that the present applicant-accused has been charge-sheeted for above mentioned offences and the case is registered as Sessions Case No.7/2022

and the allegations leveled against the present applicant/accused are in serious in nature and this fact is required to be considered.

7. After filing of the charge sheet, the applicant-accused has preferred the successive bail application under the provision of Section 483 of B.N.S.S., 2023. On plain reading of the provision of the said section, it is judicial discretion of the Court to grant or refuse the regular bail.
8. Now, so far as the successive bail application is concerned, in the following judgment the Hon'ble Apex Court has held that if the charge-sheet has been filed against the accused then accused cannot be released on bail. But, accused can file discharge application before Ld. JMFC/Sessions Court. In case of **State of Maharastra V/s Ritesh S/O Vasudeo Wanjar reported in 2001 (2) Crimes 30 (SC)** wherein it is held that:-

IMPORTANT POINT

Where final charge-sheet has been filed Court cannot grant bail to accused on ground of innocence or non-involvement. For this better course is to apply for discharge under Ch.XVIII of Cr.P.C. instead of granting bail under Section 439 Cr.P.C.

Para-6. Once the final charge-sheet has been filed in the trial Court, the High Court, under the normal circumstances, should have permitted the respondent to get a verdict of his innocence or involvement from that Court under Chapter XVIII of the Code of Criminal Procedure. No exceptional ground has been made out, in the instant case, to depart from such a usual established procedure. The order impugned being contrary to law is liable to be set aside.

9. The principle laid down in the above referred judgment of Hon'ble Apex Court squarely covers the case on hand. As per this binding judgment of Hon'ble Apex Court in the humble opinion of this court, as the charge-sheet has been filed against the accused, this court cannot exercise the discretion in favour of the accused.

10. Looking from different angle, I have considered the rival submissions. Admittedly, this is a successive bail application as previous bail applications being Cr. M. A. No.263/2023 and Cr.M.A. No.445/2024 preferred by the present applicant/accused, which came to be rejected by this court and this fact is required to be considered. Now, by preferring the present successive bail application, Ld. Advocate for the applicant-accused, once again attempted to raise the same contentions, which were raised on previous occasions. It is true that successive bail applications are permissible under the change of circumstances. But, at the same time, the change in circumstance should be “substantive” and not mere “cosmetic change” or “peripheral change” in the erstwhile circumstances, and that the change ought to be such which would have direct impact on the previous decision. Once the application was rejected earlier, there is no question of granting a similar prayer. That is virtually overruling the earlier decision passed by this Court and would amount to reviewing the previous order, which is not at all permissible under Criminal Law.
11. In view of the above ruling coupled with the facts herein this application, it does not fall even in the category of “application preferred on account of change in circumstances”. Further, it prima-facie appears from the records, charge-sheet papers and affidavit of I.O. that present applicant/accused is involved very serious offence of murder and this fact is required to be considered. Moreover, in the present case, the charge-sheet has been filed and therefore, the presence of the applicant/accused is utmost necessary during the course of trial. Further, it also

appears from the police papers that prima-facie involvement of the present applicant-accused is there in the alleged offence and in such kind of serious offence, if the present applicant-accused may be enlarged on bail, it will send wrong message to the society. Moreover, the applicant/accused, the complainant and connected witnesses are residents of same vicinity and therefore, if the applicant/accused may be enlarged on bail, by keeping personal grudge, the present applicant/accused is likely to scuffle with the complainant and he is also likely to jump out the bail. Therefore, considering the seriousness and gravity of offence as well as role attributed to the present applicant/accused in the commission of alleged offence, in my opinion, there is sufficient material, which prima-facie establishes the ingredients of the offences involved herein, which has been dealt with appropriately in the previous bail applications. So, looking to the gravity of offence, there are no grounds which emerge as would entitle the applicant to the relief as sought for and therefore, in the circumstances and in the context of all such materials, without any further discussion, I pass the following order in the interest of justice.

:-ORDER:-

- The present **Criminal Misc. Application No.74 of 2026**, is hereby **rejected**.

Signed & Pronounced in the open Court on this 15th day of April, 2026.

Date :15/04/2026.
Place:Ahmedabad.
P.D. Mishra

[Naresh Girikant Dave]
Additional District & Sessions Judge,
Ahmedabad (Rural) at Dholka.
(UIC No.GJ00467.)