GJBH010006822026

IN THE COURT OF 2nd ADDITIONAL DISTRICT & SESSIONS JUDGE, AT BHARUCH

सत्यमेव जयते

Criminal Misc. Application No. 222/2026
(After Chargesheet)

Exh.

Applicant:

Vishnubhai Ravjibhai Patel.
Age: 55 Yrs. Male , Occu: Service,
R/o: A/5-102 Mangla green
Tarsali, Vadodara.

V/S

Opponent :

State of Gujarat

Subject: Application under Section 483 of BNSS

ORAL ORDER

(1) This is the second application filed as per Section 483 of BNSS. Previous bail application filed on the basis of FIR i.e Criminal Misc. Application No. 100 of 2026, was dismissed on merits and now as the investigation being completed and charge sheet being filed, this application is preferred.

(1a) This bail application is filed by the applicant in connection with the FIR being registered vide CR.No. Part- A 183/2005 at ‘A’ Division Police Station-Bharuch for the offence under Section 406, 409, 420, 120(b) & 114 of the Indian Penal Code.

(2) The facts of the case:

The facts of the present case according to the record is that the accused nos. 1 to 7 opened accounts in their individual name as well as in the name of different firms and companies at Punjab National Bank and in-spite of not having sufficient funds in their accounts at other banks they issued bogus cheques and though the accused no. 8 the bank manager was aware of the bank rules that, individuals from the same family or partners of the same firms can not purchase the cheques between each-other, he intentionally overlooked it and dishonestly purchase the said cheques to facilitate and allow the accused no. 1 to 7 to deposit the cheque amount in their accounts and withdraw the total amount of Rs. 1,03,74,605/- and thereby the accused committed breach of trust, cheated the bank and misappropriated the funds, in collusion/conspiracy with each-other.

(3) Learned APP and the learned Advocate for the applicant/accused had appeared as intimated to them in the notice served through this Court. This Court has heard both the side and considered the papers.

(4) **<u>Submission on behalf of applicant:</u>**

The submission of the Ld. advocate for the applicant are based on their application, most of the submissions are repetition of previous bail application dismissed on merits i.e Criminal Misc. Application No. 100 of 2026.

(4a) Apart from the facts stated in the application, the Ld. Advocate for the applicant has stated that, after the dimissal of Criminal Misc. Application No. 100 of 2026, by this court, the applicant had preferred CR.A/10569 of 2026 before the Honourable High Court of Gujarat, but the same was withdrawn, the status report of the same is annexed.

It is now submitted that, the investigation is over and chargesheet being filed, there would be no question of tampering with the evidence. The Ld. Advocate has urged that, the accused was not absconding and he left the address shown in the FIR since last 25 years and thereafter he is residing at the address mentioned in the application, it is submitted that this is not an application for anticipatory bail, the accused is in custody, hence the judgement referred in the previous bail application No.100/2026 i.e of Vipan kumar Dhir Vs. State of Punjab would not be applicable. It is submitted that, the offence is registered after the delay of four years for which no explanation is given, the complainant is a bank and periodically all the accounts of the bank are being audited. It is submitted that the accused was not having any knowledge regarding this case against him and he was only having knowledge regarding the recovery of amount from him. Further the role of the applicant is referred and it is submitted that, the present applicant was not in contact with the bank officer i.e., the main accused Arvindbhai Pagare, no prima facie offence appears to be committed by the present applicant, the present applicant is made scapegoat, the role of the present applicant is lighter compared with the accused release on bail by Honourable High Court vide, Criminal Misc. Application No. 4561/2007 i.e Kiritbhai Natvarlal Bhatt, and parity is claimed by the applicant. It is submitted that the applicant was not absconding, the Investigating Officer has not carried out any procedure for proclaimed offender, u/S. 82 of Cr.PC. Moreover it is submitted that the Criminal Case No. 19/2007 is pending before the Ld. Trial Court and the investigation against the present applicant is also completed, now all the documents of the said offence are in the custody of Ld. Trial Court, hence, there would be no questions of tempering with the evidence. It is finally submitted that, the applicant is resident of the address mentioned in the application and will comply the conditioons imposed and would attend the trial regularly, hence it is submitted to allow the application.

(4b) The Ld. advocate has relied on the following judgemets.

1. 2025(0) AIJEL-SC 76188 Sagar Vs. State of Uttar Pradesh.

2. 2024(0) AIJEL-SC 74353 Kunhimuhammed@ Kunheethu Vs. State of Kerala .

3. 2023(0) AIJEL-SC 72239 Bhagwan Singh Vs. Dilip Kumar @ Deepu @ Depak: Netram.

4. 2025(0) AIJEL-SC 75722 Ashok Dhankad Vs. State of Nct Of Delhi.

5. 2019 (0) AIJEL-SC 65036 P.Chidambram Vs. Central Bureau Of Investigation.

(5) **<u>Submission of Ld. APP:</u>**

The Ld. APP. during his submission has relied on the affidavit filed by the Investigating Officer, apart from the affidavit it is mainly submitted that, this is the second bail application for regular bail and there are no change in the circumstances after the dismissal of Criminal Misc. Application No.100/2026, which was decided on merits and now merely filing of chargesheet cannot be considered as change of circumstance. It is submitted that no new ground has been pointed out during the submission on behlaf of the applicant, the issue raised are repetition of previous bail application. It is submitted that the ground of parity would not be available to the applicant, as it is decided in the previous bail application alongwith reasons. It is submitted that the accused was beyond the reach of police since last 20 yrs. after the offence being registered in the year 2005 and now the present applicant/accused was arrested in 2026. It is submitted that, all the accused together in conspiracy with each-other has committed the said offence. The present applicant is also benefited from the said misappropriated, bank money. It is submitted that while opening the bank account, intentionaly false, residential address, was submitted in the bank. It is submitted that not only the present applicant/accused but the other co-accused whose bail application is pending in this Court vide Criminal Misc. Application No. 207/2026 i.e Prakashbhai Madhubhai Dave, has also submitted the same false address in the bank record i.e '***11- Sudhanagar, Jetalpur Road, Alkapuri Vadodara***, which indicates the intention of the applicant, i.e to cheat the bank and misappropriate the public money and to get personal benefit. It is submitted that the present applicant had produced the copy of demand notice issued by the Punjab National Bank, dt.11.03.2002 in the previous application and thus he was aware of the cases filed against him, and the applicant has submitted that he has left the address since last 25 years but he failed to provide new address in the bank and even after getting the copy of demand notice from bank, he had kept himself out of reach of police and evade his arrest all this years.

It is submitted that only two accused were arrested and charge-sheet was filed against them and rest of the accused including the present applicant are shown as absconding in the charge-sheet of Criminal Case No. 19/2007. Further, it is submitted that the main accused was released on bail after five years of judicial custody and that too on the ground that the trial was delayed, hence, considering the conduct of the present applicant/accused, the parity would not apply, Further, the Ld. APP has also submitted that offence u/S. 138 of Negotiable Instrument Act registered against the present applicant and other co-accused were dismissed as the accused was not traceable and the bank was not able to get their whereabouts. It is submitted that considering the facts and circumstances and the conduct of the present applicant/accused the judgements of which the Ld. advocate has relied would not be helpful, it is further submitted that after approximately twenty years the accused are nabbed, even at the end of investigation prima facie case remains against the applicant/accused, no change of circumstances being pointed out, other co-accused still absconding and looking to the past conduct of the applicant, if released on bail again the applicant may not be available at the time of trial. Hence, it is submitted to dismiss the application.

Conclusion:

(6) This court has heard both the side. On the backdrop of the submissions made by both the parties and documents submitted, this Court has considered the same, the judgements relied upon by the Ld. Advocate for applicant are also considered.

It is to be noted that while deciding such applications, the Court has not to enter into discussion of evidence or its evaluation, definitely the same would be done at the time of trial, but at the same time, the Court has to give its primary observation for arriving at the conclusion of this bail application.

(7) Considering the entire record, no new circumstances appears, indicating any change of circumstances after dismissal of previous bail application, on the contrary even after investigation prima facie case against the accused remains as it was. Previous bail application was rejected on merits after considering the detailed submission of the Ld. Advocate for the applicant, including the ground of parity, role of the accused, the conduct of absconding.

(7a) In the case of **Virupakshappa Gouda And Another vs The State Of Karnataka And Another,** the Honourable Supreme court has held that…..

> 13. On a perusal of the order passed by the learned trial Judge, we find that he has been swayed by the factum that when a charge-sheet is filed it amounts to change of circumstance. Needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons. As is further demonstrable, the learned trial Judge has remained absolutely oblivious of the fact that the appellants had moved the special leave petition before this Court for grant of bail and the same was not entertained. Be it noted, the second bail application was filed before the Principal Sessions Judge after filing of the charge-sheet which was challenged in the High Court and that had travelled to this Court. These facts,

> unfortunately, have not been taken note of by the learned trial Judge. He has been swayed by the observations made in Siddharam Satlingappa Mhetre (supra), especially in paragraph 86, the relevant part of which reads thus:-
>
> "The courts considering the bail application should try to maintain fine balance between the societal interest vis-a-vis personal liberty while adhering to the fundamental principle of criminal jurisprudence that the accused is presumed to be innocent till he is found guilty by the competent court."

Same, false residential address submitted in the bank by the present applicant and Co-accused....

(8) This Court has heard both the side, considered the papers provided, apparently, it appears that present applicant and the applicant of Criminal Misc. Application No.207/2026 had given, same false residential address i.e **'11- Sudhanagar Jetalpur Road, Alkapuri- Vadodara'**, in the bank while opening the account in the name of optical communication and nothing has been produced indicating that the applicant/accused was ever residing at the address given in the bank i.e **'11- Sudhanagar Jetalpur Road, Alkapuri- Vadodara',** even after getting the copy of the demand notice the applicant had not appeared before the bank or in the court and was out of reach of police.

<u>Applicant absconding since 2005</u>.....

(9) As per the charge-sheet of Criminal Case No. 19/2007 only two accused i.e Arvindbhai Ravindrabhai Pagare & Kiritbhai Natvarlal Bhatt were arrested whereas seven accused were shown in the Column No. 2 as absconder, wherein the name of the present applicant/accused is at Serial No. 5. Hence, what appears from the papers is that the present applicant and the applicant of Criminal Misc. Application No. 207/2026 had given false address intentionally in the bank record and thereafter were out of reach of the police.

(9a) Honourable Supreme Court in the Petition(s) for Special Leave to Appeal (Crl.) No. 1403/2002, JAGTAR SINGH VERSUS SATENDRA KAUR @ BHAVANA GROVER & ORS has held that…

> *The order passed by the High Court appears to be unusual one. Learned counsel for the State submits that at present the respondents-applicants are absconding.*
>
> ***Normally, when the accused are absconding there is no question of granting anticipatory or regular bail.***
>
> *Admittedly, neither the High Court nor the Sessions Court has granted anticipatory bail in this matter. Hence, it would be open to the Investigating Officer to arrest the respondents.*

(10) This Court has also taken note that, there is no explanation on behalf of applicant/accused that as to why false address was given in the bank record at the time of opening of account.

Regarding Complaints against the applicant, u/s 138 of The Negotaible Instrument Act and Address & order therein..

(11) This court has considered and discussed while deciding previous bail application that, Criminal Case No. 9996/2001, Criminal Case No. 10063/2001 & Criminal Case No. 10076/2001, Criminal Case No.9985/2001, Criminal Case No. 9325/2001, were filed against the present applicant/accused by the officer of the Punjab National Bank, which according to the prosecution were dismissed for default, by the Ld. Magistrate court, as the false residential address was provided.

Hence what prima facie appears is that, intentionaly, false residential address was provided in the bank as a part of conspiracy, so that the concerned authorities may not trace him out and due to which the cases filed under Negotiable Instrument Acts were dismissed .

Role of the applicant/accused....

(12) So far the role of present applicant is concerned, he has also opened the bank account in Punjab National Bank-Panchbatti Branch in name of different firms, in name of (1) Global Solution (2) Cyber Infotec (3) Inter Soft Solution and the detail of transaction of the above said account is mentioned in the affidavit of investigation officer and all the accused together in conspiracy with each other had misappropraited huge amount for their personal use and the present applicant is also part of the conspiracy and hence the submission that the applicant is not benefited is not be tenable.

Regarding ground of Parity .....

(13) The Ld. Advocate has claimed parity and had relied on the judgement at Sr. No. 1 and 2 i.e 2025(0) AIJEL-SC 76188 Sagar Vs. State of Uttar Pradesh and nd 2024(0) AIJEL-SC 74353 Kunhimuhammed@ Kunheethu Vs. State of Kerala .

So far the ground of parity, claimed by the applicant/accused is concerened, this court has discussed the same and the reasons were given, while deciding the previous apllication i.e Cri. Misc. Application No. 100/2026 and has discussed that, the present applicant/accused after providing false residential address in the bank, was out of reach of police, hiding himself to evade his arrest, since 2005 and failed to co-operate the investigation agency and now he has been arrested, he cannot claim parity that the other co-accused are released on bail, this court has taken note that the accused granted bail were not absconding all these years.

(14) In the judgement, relied upoon by the applicant at Sr.No.3 i.e 2023(0) AIJEL-SC 72239 Bhagwan Singh Vs. Dilip Kumar @ Deepu @ Depak: Netram, Honourable Supreme Court has held that, " *Grant of bail is a discretionary relief which necessarily means that such discretion would have to be exercised in a judicious manner and not as matter of course and the grant of bail is dependent upon contextual facts of matter being dealt with by court may vary from case to case and there cannot be any exhaustive parameters set out for considering the application of bail".*

(14a) The case of <u>Prashanta Kumar Sarkar Vs. Ashish Chatterjee and another</u> (2010)14 SCC 496 is also referred in the said judgement relied upon by the Ld. Advocate for the applicant , wherein the factors to be borne in mind while considering an application for bail are also mentioned, the same are reiterated below....

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.

(14b) So far the case on hand, the case registered in the year 2005, the applicant/accused had succeeded to be out of reach of the police since all these twenty years by intentionally providing false residential address in the bank record. Further, the money misappropriated is public money huge amount of Rs. 10,37,4605/- has been misappropriated in conspiracy of co-accused including the bank manager, the said amount is a huge amount, seven accused were shown absconding in the charge-sheet out of which the present applicant and the applicant of Criminal Misc. Application No. 207/2026, are traced out and arrested. Hence prima facie case appears against the applicant and considering the nature and gravity of the accusation; severity of the punishment in the event of conviction; danger of the accused absconding or fleeing, again if he being released on bail, consdering the past conduct and behaviour of applicant it can not be denied that he may jump over the bail and would not be available for the trial. Moreover considering the judgement referred i.e of **Virupakshappa Gouda And Another vs The State Of Karnataka, as no change in circumstances is found after the dismissal of Criminal Misc. Application No. 100/2026,** this Court is not inclined to allow the present application. Hence, following order...

<u>ORDER</u>

The present application is hereby **D**ismissed.

Signed and pronounced in the open Court today on this 30th March 2026.

Date : 30/03/2026.
Place: BHARUCH
(EMS)

(EJAZ MOHSINALI SHAIKH)
2nd Additional District & Sessions Judge,
BHARUCH.
(Judge Code No.GJ00627)