



Filed on : 06.03.2026

Registered on : 06.03.2026

Decided on : 17.03.2026

Duration : 11.00.0000

D M Y

**IN THE COURT OF 2ND ADDITIONAL SESSIONS JUDGE
& SPECIAL JUDGE (GLGP), BANASKANTHA DISTRICT
AT PALANPUR**

CRI. MISC. APPLN. NO.250/2026

Exh. _____

Applicant: Harchandji Pujaji Patel (Chaudhary)

Age : 40 years, Occupation : Agriculture,

R/o. Madalsim, Taluka : Lakhni,

District : Vav-Tharad

Versus

Opponent: The State of Gujarat

(Notice be served to the District Public

Prosecutor Office, Palanpur)

**SUBJECT :- APPLICATION
UNDER SECTION 483 OF
BHARATIYA NAGRIK
SURAKSHA SANHITA, 2023
FOR REGULAR BAIL.**

(A. J. Kanani)

2nd Addil Sessions Judge &
Spl. Judge (GLGP), Palanpur

Appearance:

Mr. N. M. Batua, Ld. Adv. for the Applicant

Mr. T. A. Trivedi, Ld. Spl. P.P. for the Opponent - State.

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

- 1) Present application is preferred by applicant under Sec.483 of BNSS, 2023 for regular bail in connection with FIR registered against him with Tharad Police Station bearing No.11195004220151 of 2022 under Sections 3, 4(3), 5(C), 5(D), 5(E) of the Gujarat Land Grabbing (Prohibition) Act, 2020 and under Sections 329(3), 54 of Bharatiya Nyay Sanhita, 2023.

- 2) Learned Advocate Mr. N.M.Batua for the applicant has submitted that applicant is innocent and has not committed any offence as alleged in the FIR and has been falsely implicated in this offence. It is further submitted that he is innocent, has not committed the crime as alleged by the prosecution, is not involved in the alleged offence, has not played any role as alleged by the complainant directly or indirectly, and he is falsely implicated, the complaint is a designed plot against him but he has in fact not committed or admitted any guilt. Even otherwise the applicant can not be said to have committed the crime in the absence of any valid evidence against him, there is no case made out against him. It is further submitted that applicant in aid and

(A. J. Kanani)

2nd Addil Sessions Judge &
Spl. Judge (GLGP), Palanpur

abetment of other co-accused persons has not usurped the land illegally which was under the rightful ownership of the complainant. It is further submitted that he has got no criminal antecedents, has no knowledge regarding the said offence and no case is made out against him and he has been falsely tried to be implicated in the said offence. It is further submitted that investigation is over and chargesheet is filed and Spl. GLGP Case No. 03/2026 is pending against the applicant for trial and so there are chances of tampering of evidences. It is further submitted that the applicant is ready and willing to cooperate with the investigating agency, is residing with family at the above stated address, and therefore, he should be released on regular bail otherwise his family will suffer a lot. That there is no prima facie case against him. The applicant undertake to abide by conditions as may be imposed by the Court, therefore he has requested to grant regular bail with suitable terms and conditions and allow this application.

- 3) Upon issuance of notice, Learned Spl. P.P. Mr. T.A.Trivedi has appeared and by filing an affidavit of I.O. at Exh.10 has strongly opposed the bail application of applicant. It has further been submitted that a serious offence under the Land Grabbing Act is registered against the applicant/accused and it is alleged that the present applicant/accused in aid and abetment of other co-accused

persons has forcefully entered into the disputed land of the complainant and has usurped the same and have also constructed unauthorized room on the disputed land which is rightfully under his ownership upon which complaint was filed by the complainant against the applicant and under Gujarat Land Grabbing (Prohibition) Act, 2020 and present applicant was booked under GLGP Act, 2020 and so applicant is prima facie involved in the present offence and mere filing of chargesheet does not changes the facts and circumstances of the present offence and therefore if in such type of offence, regular bail is granted, then there are all chances that he will tamper with the prosecution evidence and therefore releasing the applicants would send a wrong message in the society therefore has requested to reject the applicants application.

- 4) Heard, learned Advocates for the parties. Perused the bail application, police papers and affidavit of I.O. produced on record.
- 5) So far as bail is concerned, this Court is very well aware with the principle laid down by the Hon'ble High Court as well as Hon'ble Apex Court in so many reported cases with regard of the precaution required to be taken by the Court while deciding the bail application. This Court is also very well aware that bail is a rule and jail is an

exception. Punishment of the offence is not material to reject or allow the bail application but what is material to decide the bail application is a prima facie case, involvement of the accused, seriousness of offence, possibility of misuse of the liberty and presence during the course of trial. While deciding the bail application it is not the duty of the Court to appreciate the evidence like trial, material collected by Investigating Agency during the course of investigation, the Court has only to see that whether sufficient evidence is recovered by the Investigating Officer to proceed with against the accused for the allegation imposed against him. Detailed examination of the evidence and elaborate documentation of the merits of the case is to be avoided by the Court while passing orders on bail applications, yet a court dealing with the bail application should be satisfied as to whether there is a prima facie case, but exhaustive exploration of the merits of the case is not necessary. The Court dealing with the application for bail is required to exercise its discretion in a judicious manner and not as a matter of course.

- 6) It is settled principle that liberty of a person should not ordinarily be interfered with unless there exists cogent grounds therefore. In a case of State of *Uttar Pradesh Vs. Amarmani Tripathi*, reported in 2005(8) SCC 21, the

Hon'ble Apex Court held that “it is well settled that the matters to be considered in an application for bail are (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 charge (iii) severity of the punishment in the event of conviction (iv) danger of the accused absconding or fleeing, if released on bail (v) character, behavior, means, position and standing of the accused (vi) likelihood of the offence being repeated (vii) danger, of course, of justice being thwarted by grant of bail. In above referred authority the Hon'ble Apex Court also held that while a vague allegation that the accused may temper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. It is necessary for the Courts dealing with application for bail to consider among other circumstances, the following factors also before granting bail, they are : 1. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence. 2. Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant 3. Prima facie satisfaction of the Court in support of the charge.

7) The State of Gujarat plays a vital role in the development of economy of India. As the economy develops and flourishes the evils associated with properties tend to increase. Land grabbing is one of the evil. Of course the evil of land grabbing is not novice but in recent times white collar criminals are systematically implying various kinds of modus operandi, which is very essential to curb. Luckily Government of Gujarat has enacted statutes to prohibit land grabbing and introduced Gujarat Land Grabbing (Prohibition) Act, in short G.L.G.P. Act to curb not only by punishing offenders but also introduce efficacious remedy in the form of restoration of possession along with compensation.

8.1) It further reveals as per the affidavit of I.O. that the disputed land is situated at village Madal, Taluka : Lakhni bearing Old Survey No.57 paiki 1 paiki 1 and New Survey No. 197 which is under the rightful ownership and possession of the complainant and present applicant/accused in aid and abetment of other co-accused persons has entered forcefully into the land of the complainant and have usurped the same and has also constructed raw house and room unauthorizedly on the disputed land of the complainant. It reveals from the affidavit of I.O. that after filing of complaint present applicant/accused was booked under the Gujarat Land Grabbing (Prohibition) Act, 2020.

It is also required to be noted that the I.O. has clearly stated that present applicant in prima facie involved in a serious offence and mere filing of chargesheet does not changes the nature of offence as the modus operandi behind commission of such offence is required to be unearthed and therefore, there is no question of allowing this application and in these circumstances, there is no question of granting the regular bail.

- 9) It is also required to be noted that a special committee is constituted for dealing with matters under the Land Grabbing Act, the head of which is the District Collector and by considering the report of the Committee under the chairmanship of District Collector of Banaskantha it transpires that on application the inquiry was held by the committee and Talati cum Mantri, Circle Inspector, Mamlatdar and the Deputy Collector has opined for the land grabbing in the present case. In that pursuance the committee under the chairmanship of the District Collector has given a positive report and also ordered for lodging of the FIR. Hence prima facie case is made up against the present applicant/accused.
- 10) On careful consideration of the papers on record and on the basis of the discussion made above, this is not a desirable case to exercise discretion in favour of the

present applicant/accused. It reveals that investigation is over and chargesheet has been filed by I.O. and Spl. GLGP Case No.03/2026 is pending for trial against the applicant/accused. It reveals from the record that his name is appearing in the FIR and from the affidavit of I.O., applicant/accused was absconding from a very long time and in order to apprehend him warrant u/s. 70 of Cr.P.C. has been issued and applicant is a wanted accused in the present offence. Thus serious offence has been registered against the applicant/accused and affidavit of the I.O. reveals that there is a prima facie case against the applicant/accused in as much as there are evidences suggesting the involvement of the applicant/accused to the alleged offence and hence, release of the applicant/accused on regular bail at this juncture can affect the case of the prosecution and therefore present application is required to be rejected.

- 11) Further going through the papers on record, it appears that previously one of the co-accused has been enlarged on interim bail in Cr.M.A. No.507/2025 on dt.22/05/2025 and thereafter said co-accused has approached the Hon'ble High Court of Gujarat wherein he was enlarged on regular bail by the Hon'ble High Court in Criminal Misc. Application No.9599 of 2025 on dt.27/06/2025 and one another co-accused was also enlarged on regular bail by

the Hon'ble High Court in Criminal Misc. Application No.16783 of 2025 on dt.20/11/2025 upon which the present applicant has sought for parity. At this juncture before scrutinizing the above arguments for the discussion on the ground of parity, the observation made by Hon'ble Apex court in *Amit Kumar @ Bacha rai (Supra)* is necessary to refer hence represent verbatim as under.

"..The learned senior counsel appearing for the respondent claimed parity with twenty eight (28) other accused persons in the same case who have already been granted bail. We find that though some of accused are released on bail most of them are teachers who performed the invigilation duty and members of the Managing Committee against whom the charges are not so serious. It is not appropriate to compare the case of the accused-respondent, with those who were on bail, as the respondent is alleged to be the king-pin of the entire crime.."

- 11.1) Further in the case of *Sureshbhai Bharatsinh Thakor Vs. State of Gujarat, R/CRMA/8788/2020 dated 6/7/2020,* The Hon'ble High Court of Gujarat has denied the parity as the role attributed by the applicant was serious than the role played by the co-accused who were enlarged on the

bail. The relevant para no.8 is reproduced herein under for the ready reference:

“8. So far the parity aspect is concerned, looking to the orders passed by the Coordinate Bench, one order which has been passed under Section 439 of Cr.P.C. with respect to Irfankhan Pathan in which this court had no occasion to deal with the criminal antecedents of the said accused and with respect to another order passed on 12.6.2020 also, this kind of situation and circumstance appear to be not prevailing in respect of another co-accused, i.e. Salmankhan Pathan, and as such, the present applicant having criminal antecedents of this kind of very offences and by this time, the role is clearly visible prima facie from the report which has been submitted on 30/6/2020, the Court is not inclined to exercise the discretion. Apart from that, there is huge quantity of liquor which has been seized and the present applicant is none other than the R/CR.MA/8788/2020 ORDER person who called the said material from other co-accused. No case is made out for grant of any anticipatory bail at this stage, particularly when the investigation is at a crucial stage.”

- 11.3) Further in the case of *Akshitbhai Kadamkhatn Chhaya Vs. State of Gujarat, R/CRMA/9253/2020 dated 17/08/2020*, The Hon'ble High Court of Gujarat has denied the parity as the role attributed by the applicant was serious and greater than the role played by the co-accused who were enlarged on the bail by co-ordinate batch.
- 11.4) Herein it is required to be noted that the co-accused enlarged on regular bail by the Hon'ble High Court is the father of the present applicant and in the present offence the role of present applicant/accused is much greater and larger than the role played by the co-accused who was enlarged on regular bail by the Hon'ble High Court and going through the record it appears that applicant/accused was absconding from a very long time as a result of which warrant u/s.70 of Cr.P.C. was issued against him and he is a wanted accused and in order to avoid arrest was absconding from a long time. Moreover, it is also required to be noted here that the co-accused who was enlarged by the Hon'ble High Court in Criminal Misc. Application no.16783/2025 on dt.20/11/2025 has not complied with the order of the Hon'ble High Court and has not yet handed over the possession of the disputed land to the original owner/complainant and co-accused has himself breached the conditions imposed by the Hon'ble High Court and so under such circumstances the credibility of

the co-accused enlarged on regular bail by the Hon'ble High Court of Gujarat cannot be taken into consideration for giving the benefit of parity to the present applicant and therefore from the record as well as from the affidavit of I.O., it appears that present applicant/accused along with the co-accused persons are the main perpetrators wherein present applicant has actively participated in the commission of offence and since his role is greater than the role of the co-accused released on regular bail by the Hon'ble High Court, therefore under the above mentioned circumstances present applicant/accused will not be entitled for the benefit of parity.

- 12) It reveals from the affidavit of I.O. that said disputed land is under the ownership and possession of the complainant wherein the present applicant/accused in aid and abetment of other co-accused persons has forcefully entered in the land and usurped the land of the complainant. It reveals from the affidavit of I.O. that after filing of complaint present applicant/accused was booked under the Gujarat Land Grabbing (Prohibition) Act, 2020. On careful consideration of the papers on record and on the basis of the discussion made above, this is not a desirable case to exercise discretion in favour of the present applicant/accused. Serious offence has been registered against the applicant/accused and affidavit of the I.O.

reveals that there is a prima facie case against the applicant/accused in as much as there are evidences suggesting the involvement of the applicant/accused to the alleged offence and hence, release of the applicant/accused on regular bail at this juncture can affect the case of the prosecution. It reveals from the affidavit of I.O. that complainant has purchased the disputed land through registered sale deed and is having rightful ownership and possession over the same since long and the applicant/accused has illegally entered in the land of the complainant. Considering the seriousness of offence and the conduct of the applicant/accused in non-cooperating with the investigating authority, the present application is required to be rejected.

- 13) So, the prima facie evidence in form statements of the witnesses as well as the circumstances showing involvement of the applicant/accused in the above offence is found out and hence also, in such set of circumstances, no discretion is required to be exercised in favour of the present applicant/accused at this juncture.
- 14) Considering the papers on record, affidavit of I.O. said disputed land is situated at village Madal, Taluka : Lakhni bearing Old Survey No.57 paiki 1 paiki 1 and New Survey No. 197 which is under the rightful ownership and

possession of the complaint and present applicant/accused in aid and abetment of other co-accused persons has entered forcefully into the land of the complainant and have usurped the same and has also constructed raw house and room unauthorizedly on the disputed land of the complainant. At this juncture, there appears to be prima facie involvement of the present applicant/accused and previously the anticipatory bail as well as regular bail of other co-accused persons has been rejected by this court on multiple occasions. The fact and circumstances clearly suggests that it is not desirable to exercise discretion in favour of the present applicant/accused this juncture as present applicant is a wanted accused and was absconding from a very long time as a result of which warrant u/s.70 of Cr.P.C. was issued against him and even though investigation is over, chargesheet has been filed and Spl. GLGP No.03/2026 is pending for trial against the present applicant but nothing new and overwhelming circumstances are brought on record which can convince this court to enlarge the present applicant on regular bail and perusing the papers it reveals that there is a prima facie case against them in as much as there are evidence suggesting the involvement of the applicant/accused to the offence and so also, discretion can not be exercised in favor of the applicant/accused at this juncture and hence, in the said set of circumstances, I pass the following order;

(A. J. Kanani)

2nd Addil Sessions Judge &
Spl. Judge (GLGP), Palanpur

:ORDER:

The present regular bail application bearing Cr.M.A. No. 250/2026 is hereby **rejected**.

Signed & pronounced on today on this **17th day of March, 2026**

PALANPUR.
Date:17/03/2026

(Amitkumar J. Kanani)
2nd Additional Sessions Judge &
Special Judge (GLGP)
B.K. District, Palanpur.
(Code : GJ00662)