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**IN THE COURT OF 2ND ADDITIONAL SESSIONS JUDGE
BANASKANTHA DISTRICT AT PALANPUR**

CRI. MISC. APPLN. NO.253/2026

Exh. _____

Applicant: Vakilkhan Idrishkhan Ismailkhan Mev

Age: 31 years, Occupation: Driving,
R/o: Mahu, Taluka : Firojpur Jirka,
District: Nooh, Haryana

Versus

Opponent: The State of Gujarat

(Notice be served to the District Public
Prosecutor, Palanpur)

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

Appearance:

Mr. A.A.Bihari, Ld. Adv. for the Applicant.
Mr. D.H.Chappiya, Ld. A.P.P. for the State.

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

- 1) Present successive bail application is preferred by applicant under Sec.483 of B.N.S.S., 2023 for regular bail in connection with FIR registered against him with Palanpur City West Police Station bearing No.11195010250779 of 2025 under Sections 318(2), 305(E), 318(4), 329(3), 61(2), 238, 54, 3(5) of Bharatiya Nyay Sanhita, 2023 and u/s.66 of Information Technology Act.

- 2) It is pertinent to note that before filing of the present successive bail application, applicant has preferred the bail application on base of the FIR and thereafter on the base of the chargesheet which was decided on merits. Thereafter the present applicant has preferred the bail application before the Hon'ble High Court which was withdrawn by him. The present successive bail application is squarely filed on the technical grounds hence the facts and the merits of the case has not been discussed as it has already been decided by this court at length.

- 3) Before entering into the marathon submission of the Learned Advocate for the successive bail it is pertinent to note that Ld. Advocate has honestly admitted that there is no change or overwhelming circumstances on merits which are newly arisen after the bail application preferred

before JMFC Court, this court and Hon'ble High Court. It was submitted that at the time of the arrest some technicalities has not been followed by the police department and which are the fatal to the case of the prosecution and accused is entitled to release on bail in this successive bail application. Learned Advocate Mr. A.A.Bihari has forcefully submitted that the Investigating Officer has not mentioned the reasons of the arrest and further he has also submitted that that no notice before arrest has been given as per the judgment of the Hon'ble Apex Court. He has further submitted that the accused was arrested from Delhi on dt.28/09/2025 and was produced on dt.29/09/2025 and he was produced at 5:50pm on dt.29/09/2025 and arrested on 03:22 am during the early morning hours on dt.28/09/2025, so he has submitted that accused was also illegally confined. Learned Advocate has also relied on the following case laws qua the above submissions which are as under :-

- 1) *Satendra Kumar Antil Vs. CBI.***
- 2) *Rabi Prakash Vs. State of Odisha 2024 (S.C.) 146.***
- 3) *Vihaan Kumar Vs. State of Haryana & Anr. 2025 (SC) INSC 162.***
- 4) *Emmanuel Arinze Idoko @ Emmanuel Vs. The State of Karnataka & Ors. Criminal Petition No.5810 of 2025.***
- 5) *CRMA 5708 of 2018 Ansa Ali Vs. State of West Bengal.***

6) David Ntemi Kilekama Jengaa & Others Vs. The State of Kerala.

7) Tazuddin Vs. State of Assam.

8) Enforcement Directorate Vs. Subash Sharma 2025 SCC online 240 Para 8

3.1) This court has gone through the ration laid down by the Hon'ble High Courts on above cited case laws. But the facts of the present case and the facts of the case laws cited above are totally different hence not helpful to the Ld. Advocate of the applicant. Further Ld. Advocate has forgot that this is a successive bail application and being a efficient lawyer he must know and this court expect also from him that what would be the ground for successive bail. Ld. Advocate has himself admitted that the grounds are available at the time of the bail application before Ld. Magistrate, this court and also before the Hon'ble High Court. But due to reasons best known to the earlier lawyer not raised at relevant time. So he preferred present successive bail application. He has also honestly admitted that there is no new or overwhelming grounds or circumstances which were arisen after the bail application has been withdrawn from the Hon'ble High Court. He emphasized on the above technical points or so called technical mistakes of the police department and he wanted the accused to be a free bird and he wanted to held by this

court that due to such a technical aspect the order of the Ld. Magistrate Court, the order of this court and the order of the Hon'ble High Court is not correct and accused has a right to be released on bail. So prima facie there is no change of circumstances and so this court is not in agreement with the arguments of the Ld. Advocate and this court finds no change or overwhelming circumstances which were not considered by the Ld. Magistrate Court or this court or by the Hon'ble High Court at the time of bail application before them. Even though this court has touched the arguments of the Ld. Advocate which were totally meritless as the accused was produced before the Ld. Trial Court and the Ld. Trial Court has clearly held that the ground of the arrest are mentioned by the I.O. and the arrest was declared legal by the Ld. Trial Court. Further the Ld. Trial Court has also opined that the grounds of arrest submitted by the I.O. is genuine one as the arrest of the accused was necessary to prevent the further offence and recovery of the muddamal and the proper investigation of the offence. It is needless to mention here that when the I.O. is of the firm view that the arrest of the accused is necessary to prevent the offence or to recover some muddamal then there is no whisper or the embargo in the Cr.P.C. or B.N.S.S. to not to arrest the accused. Further so far as the argument that the grounds are not mentioned, reasons are not mentioned, the journey

period has not been mentioned, these all documents should be dealt at the time of the production by the Ld. Magistrate. This is not the revision application where the court has to decide that Ld. Magistrate has not ordered correctly, legally or with the principles of the law while deciding the custody. The argument which was canvassed by the Ld. Advocate was already dealt with by the Ld. Magistrate and Ld. Magistrate has authorized the custody as legal custody, so above grounds are not necessary to deal with again and again just the accused do not want to live in jail. It is needless to mention here that the Ld. Advocate has not challenged the authorization of the accused by way of revision or by way of representation of this court or by any higher courts so above argument is baseless and this court finds that this is nothing but the abuse of law. Further the argument and the technical points which are raised by the Ld. Advocate are considered at the time of the trial and after recording of the evidence. Ld. Advocate wanted this court to start a mini trial and decide the issue without recording of evidence. When the Ld. Trial Court has already dealt with the aspect of custody and custody was legally authorized then no such ground can be considered as a new ground for release of accused in successive bail. It is pertinent to note that at the time of production of accused, remand of the accused, judicial custody of the accused, at the bail before Ld.

Magistrate and this court on FIR and on basis of the chargesheet no such ground of illegal custody has been arisen by the Ld. Advocate. Moreover the Hon'ble High Court has also not inclined to grant the bail and resultantly present applicant has withdrawn the bail application. Now, Ld. Advocate wants to reverse the clock and wanted this court to start the mini trial without recording of the evidence, wanted to decide that all the earlier order of the courts regarding bail are incorrect and accused is entitled to get the bail on technical grounds in this successive bail application. It is very heart burning to mention here that if such a practice is to be tolerated then the flow of the successive bail application would arise day in and day out. Ld. Advocate has taken the courts very lightly and whenever they remember that some points or the grounds has not been taken at the time of the earlier bail application so they prefer the successive bail. This is not the way. This is not the ground for the successive bail application. The lawyer has forgotten to take some ground or the earlier lawyer on record has not taken some ground or forgot to take some ground cannot be considered as a new or overwhelming ground for successive bail. Such kind of practice is highly condemned and depreciated by imposing a cost on the applicant. Having said that this court abstains itself at this juncture from imposing cost as

the accused is already in jail and imposing cost would not be justifiable at this juncture.

- 4) Having said that this court intended and expected that the Ld. Advocate should abstain himself from filing such kind of applications and he should borne in mind that what should be the criteria and grounds for successive bail and since Ld. Advocate has miserably failed to establish the new or overwhelming grounds for successive bail, therefore present application deserves to be rejected. Thus, in view of the above discussion, this court do not deem it fit to exercise discretion in favor of applicant/accused and hence, following order is passed in the interest of justice;

:ORDER:

The present regular bail application of applicant bearing Cr.M.A. No. 253/2026 is hereby **rejected**.

Signed & pronounced on today on this **16th day of March, 2026**.

PALANPUR.
Date: 16/03/2026

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