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Duration : 05.00.0000

D M Y

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

CRI. MISC. APPLN. NO.255/2026

Exh. _____

Applicant: Iqbalkhan @ Billu Jivaji Sardarba Banjara

Age: 30 years, Occupation : Driving,

R/o. Ismailnagar, Taluka : Malpura,

District : Tank (Rajasthan)

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. M. Sindhi, Ld. Adv. for the Applicant

Mr. P. P. Gosai, Ld. Spl.P.P. for the State.

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

- 1) Present 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 Amirgadh Police Station bearing No.11195003210932 of 2021 under Sections 5(1) and 5(1-A) of The Gujarat Animal Protection Act, 1954, Sections 6(1) and 6A(3) of the Gujarat Animal Protection (Amendment) Act, 2011, Section 6A(4) and 8(4) of the Gujarat Animal Protection (Amendment) Act, 2017, Section 11(1)(a)(d)(f)(h)(i)(e) of the Prevention of Cruelty to Animals Act, 1960 and Section 2 and Section 9(1) of the Gujarat Animal (Manipulation Control) Order, 1976 issued under the Gujarat Essential Commodities and Cattle (Control) Act, 2005 and Section 119 of the Gujarat Police Act.

- 2) Learned Advocate Mr. A.M.Sindhi 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 and considering the papers on record no offence is made and he was not taking the oxes illegally in a concealed truck to slaughter house and was also not involved in slaughtering the animal and only the basis of doubt present applicant has been arrested by the police just

to harass him. It is further submitted that he has falsely been implicated in the present offence and all the averments against the him are false and fabricated and considering the statements produced on record, it clearly transpires that he has been falsely implicated in the present offence. It is further submitted that there is no evidence connecting him with the alleged crime and now, the investigation is over and the charge sheet has been filed and Criminal Case No. 259/2026 is pending against him for trial and so there is no question of tampering with the evidences and he is residing with family at the address stated in the application, has got deep roots in the society and, therefore, he be released on bail otherwise his family will suffer a lot. It is further submitted that applicant is doing agricultural work for livelihood and having responsibility to maintain his family and if he is not enlarged on regular bail then his family would suffer a lot. It is further submitted that applicant is a local resident of Palanpur and is also ready and willing to abide by the terms and conditions that will be imposed by the court while freeing him and therefore, requested to allow this application.

- 3) Upon issuance of notice, Learned Spl.P.P. Mr. P.P.Gosai has appeared and by filing an affidavit of I.O. at Exh.6 has strongly opposed the bail application of applicant. It is

contended that present applicant/accused along with the aid of other co-accused persons was illegally transporting cows and oxes inside container truck bearing no.RJ-14-GL-7214 and was taking them to slaughter house for slaughtering the animals and applicant/accused along with the co-accused persons were red-handed caught in illegally transporting the animals by hiding inside the container truck. It is further contended that when the police personnel tried to apprehend the applicant/accused he tried to flee away by leaving the vehicle on the side of road and therefore present applicant/accused is prima facie involved in the offence of animal cruelty. It is further submitted that present applicant is prima facie involved in a very serious offence and therefore enlarging him on regular bail will send a wrong message in society as a very serious offence of animal cruelty and illegal transportation of cows and oxes is committed by him. Based on the above arguments, Ld. A.P.P. has prayed to reject this 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) In bail application, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The grant or refusal of the bail lies within the discretion of the Court.
- 8) Looking to the principle laid down by the Hon'ble Apex Court in the authorities, it becomes very clear that unless and until any strong evidence on record to reject the bail application, the Court is not competent to disallow the bail application submitted by the accused. This Court is also in belief that statute has given discretion to the Court under Secs. 480 and 483 of B.N.S.S., 2023 to release the accused person who is charged with non-bailable offence.
- 9) While deciding the bail application, two aspects in form of individual liberty and social interests are to be considered

simultaneously. I have read the police papers. I have gone through the evidences collected by the I.O. during the course of investigation. It is to be noted that investigation is over and chargesheet has been filed and Criminal Case No. 259/2026 is pending against the applicant but by merely filing of chargesheet, it cannot be said that the circumstances have changed. The offence registered against the applicant/accused person is of very serious nature. It reveals from the affidavit of I.O. that present applicant/accused along with the aid of other co-accused persons was illegally transporting cows and oxes inside container truck bearing no.RJ-14-GL-7214 and was taking them to slaughter house for slaughtering the animals and applicant/accused along with the co-accused persons were red-handed caught in illegally transporting the animals by hiding inside the container truck. It is further contended that when the police personnel tried to apprehend the applicant/accused he tried to flee away by leaving the vehicle on the side of road and therefore present applicant/accused is prima facie involved in the offence of animal cruelty. It also reveals that there is prima facie evidence against the accused person and he is appearing to be prima facie involved in a serious offence and the papers on record at this juncture as well as the circumstances clearly shows the prima facie involvement of the accused-person in the above offence. It further reveals from the FIR

that name of the present applicant and other co-accused persons are appearing on record. It also appears that after the applicant and other accused persons were caught by police, accused had tried to flee away from the spot but was chased and apprehended and so for further inquiry and to unearth the illegal racket of transportation of poor animals custody of the present applicant/accused is required.

(9.1) It is required to be noted from the affidavit of I.O., that applicant/accused has played an active role along with one another co-accused in commission of the offence and looking to the nature of the offence, it was done after full fledged planning. It is required to be noted that investigation is over, chargesheet has been filed but nothing new and overwhelming circumstances are brought on record and so, if at this juncture, the present application is allowed then there are all chances that applicant/accused may misuse his liberty and can influence the witnesses and considering the seriousness of the offence also, this application is required to be rejected and in that circumstances, no discretion is exercised in favour of the applicant/accused. So, considering the manner in which the offence has been carried out and the role attributed by the present applicant/accused, there is no question of exercising any discretionary power in favour of the present

applicant/accused person. The applicant/accused is involved in the serious offence. There is a strong prima facie case against the applicant/accused and the offence committed by the applicant/accused is a very serious act in regards to security and well being of the society and therefore under such circumstances this court does not deem fit to exercise jurisdiction in favour of the applicant/accused.

- 10) Learned Advocate for the applicant/accused has further argued out that the co-accused persons involved in the present offence has been enlarged on regular bail by this court in Cr.M.A. No.1087/2024 dtd.05/10/2024 and therefore Ld. Advocate has argued that present applicant/accused is entitled to get the benefit of parity and be enlarged on regular bail. Now, 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 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."

- 10.1) 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 as 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.”

10.2) 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 persons who were enlarged on the bail by co-ordinate batch.

10.3) Thus by considering the above case law of the Hon'ble Apex Court and Hon'ble High Court of Gujarat it is clear that if the role played by the applicant-accused is severe and greater than the role played by co-accused persons who were enlarged on bail, then in that case court can

denied the parity. In the present case also the role of the present applicant/accused is much greater and severe than the role of the co-accused persons who were enlarged on regular bail by this court and present applicant/accused is the main perpetrator as he had filled up the cows and oxes in the truck for illegal transportation which was heading for slaughter house and therefore in order to curb out the entire racket of illegal animal transportation to slaughter house the presence of the present applicant is required. Therefore at this juncture, this court does not deems fit to exercise discretion on giving the benefit of parity to the present applicant/accused.

- 11) As stated above, serious offence has been registered against the applicant/accused and the papers on record reveals that he has played an active role in the commission of the offence and with full fledged planning applicant/accused has hatched conspiracy of illegally transporting the poor animals to slaughter house which is a very serious offence and so from the affidavit of I.O. it appears 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 offence, and the investigation is going on, is at crucial stage and chargesheet has not yet been filed and hence in the said set of circumstances, I decline to exercise judicial

discretion conferred under Section 483 of BNSS, 2023. Therefore, it is not desirable to exercise the discretion in favor of applicant/accused and the present regular bail application deserves to be rejected and hence following order is passed. 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 bearing Cr.M.A. No. 255/2026 is hereby **rejected**.

Signed & pronounced on today on this **12th day of March, 2026**.

PALANPUR.
Date: 12/03/2026

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