

GJBK010020352026



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Decided on : 16.06.2026

Duration : 16.00.0000

D M Y

**IN THE COURT OF 3RD ADDITIONAL SESSIONS
JUDGE BANASKANTHA DISTRICT
AT PALANPUR**

CRI. MISC. APPLN. NO.642/2026

Exh. _____

Applicant: Shaileshkumar @ Sanjay

Hemrajbhai Thakor,

Age: 25 years, Occupation : Labour work,

R/o Ruppura (Parpada), Tal.Palanpur,

Dist. Basnaskantha.

(At present in Sub-Jail, Palanpur)

Versus

Opponent: The State of Gujarat

(Notice be served to the District Public

Prosecutor, Palanpur)

(A. J. Kanani)

3rd Addil. Sessions Judge,
Palanpur

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

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Appearance:

Mr. S. K. Patel, Ld. Adv. for the Applicant.

Mr. D. H. Chhapiya, Ld.A.P.P. for the State.

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:: 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 Palanpur City West Police Station bearing No.11195010260637 of 2026 under Sections 143(2), 61(2), 212, 87, 296(b), 309(4), 85, 64(2) (m), 127(3), 351(3) of Bharatiya Nyay Sanhita, 2023.
- 2) Learned Advocate Mr. S.K. Patel for the applicant has submitted that applicant is innocent and has not committed any offence as alleged in the FIR and have 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 does not know anything about the alleged crime. According to the complaint of the complainant, no such incident has

taken place nor do the applicant know the victim, nor the applicant has transacted any money or purchased the complainant victim for Rs.50,000/- or he did not make a deal with anyone for the same. It is further submitted that the applicant has not helped anyone in selling or in loot or rape of the victim complainant or has not done any bad act or robbery with her. Further there was no role played by the present applicant in commission of the offence. But the investigating officer has wrongly implicated the applicant in the alleged offence 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 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 also submitted that the applicant was arrested by police on 22.05.2026 and presented before the Hon'ble Court and his remand was granted and as the learned trial Court has no jurisdiction to grant bail, hence, sent the applicants in the Jail and since then the applicants are in the judicial custody in the sub jail at Palanpur. It is also submitted that false complaint is filed against him that the applicant has helped in purchasing the

complainant for Rs.50,000/-. Thus, no such fact is mentioned in the complaint against the applicant. Thus, false complaint is filed against the applicant. Thus, the applicant does not have any knowledge about the offence. It is further submitted that applicant is doing labour 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 village Ruppura, Tal.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 A.P.P. Mr. Chhapiya has appeared and by filing an affidavit of I.O. at Exh.7 has strongly opposed the bail application of applicants. It is contended that present applicants/accused persons in aid of each other and in such a way that the accused Nikeshkumar Vanabhai Chaudhary disliking complainant who is his wife and he was in a love relationship with other woman, but the complainant did not go to her parent's house. So her husband was physically and mentally torturing the complainant, despite which she was enduring the torture of her husband, so that the accused Nikesh Chaudhary and

his co-accused friends namely Ashok Thakor, Sachin Darbar and present applicant Sanjay @ Shailesh Thakor hatched a pre-planned conspiracy and threatened the complainant to kill her and accused Nikesh Chaudhary had given an application that complainant is missing. Further accused Sachin Darbar and accused Ashokji Thakor who were involved in the conspiracy made the complainant sit in a rickshaw and took her in a house and at that time the co-accused Ashok Thakor abused the complainant and threatened to kill her and thereby forcibly removed the gold earrings of the complainant of Rs.15000/- from her ears and robbed her and another co-accused Sachin Darbar also threatened to kill her and forcibly raped her twice and also forcefully and by threatening prepared the video of the complainant. Further according to the pre-planned conspiracy, the complainant was forced to marry the present accused Swarupji Thakor through the co-accused Tinaji Thakor and co-accused Heenaben Thakor by making a deal with present accused Swarupji Thakor for Rs.50,000/- and sold out the complainant to accused Swarupji Thakor and forcibly kept the complainant/victim in his house for a week and repeatedly raped the complainant/victim and helped each other in committing the offence.

It is further contended that it appears that present accused person has committed a very horrendous, grave, shameful and serious offence and therefore enlarging him on regular bail will send a wrong message in society as a very heinous and brutal offence of selling a married woman and also helped other co-accused persons in committing rape of the complainant. 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. The offence registered against the applicants/accused persons is of very serious nature. It reveals from the affidavit of I.O. that applicants/accused persons in aid of each other and abetment of other co-accused persons have kidnapped the complainant victim and forcefully took her to a house where the other co-accused have

forcefully taken the earrings of the complainant and also committed rape of the complainant. As such the present applicant accused has also helped the co-accused and sold out the complainant for Rs.50,000/- to other co-accused. Thus, the present accused person with the aid of other co-accused persons have committed very heinous and shameful offence and sold the complainant. It is further contended that the complainant is a married woman. It also appears that the present applicant 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 that the involvement of the present accused person is clearly found in this offence from which it appears that applicant/accused person has actively participated in the commission of the present offence.

(9.1) It is required to be noted from the affidavit of I.O., that applicant/accused person is one of the main perpetrators and has played an active role in commission of the offence with the aid of other co-accused persons have committed such brutal, shameful and horrendous offence with the complainant victim. It is required to be noted that investigation is going on, is

at a crucial stage and charge sheet is yet to be filed and so, if at this juncture, the present application is allowed then there are all chances that there would be hindrance in the investigation 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 applicants/accused persons. So, considering the manner in which the offence has been carried out and the role attributed by the present applicants/accused persons, there is no question of exercising any discretionary power in favour of the present applicants/accused persons. The applicant/accused person is involved in the serious offence. There is a strong prima facie case against the applicant/accused person and the offence committed by the applicant/accused person is a very serious act in regards to safety of women in a society and since investigation is pending, at a crucial stage and charge-sheet is not yet filed therefore under such circumstances this court does not deem fit to exercise jurisdiction in favour of the applicant/accused.

- 10)** As stated above, serious offence has been registered against the applicant/accused person and the papers on record reveals that they have played an active role in

the commission of the offence and he is the real perpetrator and with the help of other co-accused persons have committed this shameful and horrendous offence of loot, rape and selling of a woman means complainant victim and so from the affidavit of I.O. it appears that there is a prima facie case against the applicants/accused persons in as much as there are evidences suggesting the involvement of the applicants/accused persons 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 person, 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 applicants/accused persons and hence, following order is passed in the interest of justice:

:ORDER:

The present regular bail application bearing Cr.M.A. No.642/2026 is hereby **rejected**.

(A. J. Kanani)

3rd Addl. Sessions Judge,
Palanpur

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

PALANPUR.
Date:16/06/2026

(Amitkumar J. Kanani)
3rd Additional Sessions Judge
B.K. District, Palanpur.
(Code : GJ00662)

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