

GJBK010022512026



Received on : 18.06.2026
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 Decided on : **25.06.2026**
 Duration : 07 -- --
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**IN THE COURT OF I/C SESSIONS JUDGE,
 BANASKANTHA AT PALANPUR**

Exh. _____

Criminal Misc.(Regular Bail) Application No.711/2026

Applicant: **Rajesh @ Rajubhai Maheshbhai
 Darbabbhai Rathod (Chhara)**
 Age: 30 Years, Occu.: Driving,
 R/o Saranagar,
 Near Digvijay Cement Factory,
 Ahmedabad,
 At present in Sub-jail, Palanpur.
VERSUS

Opponent: **The State**

Appearance:

Mr. M. M. Sindhi, Learned Advocate for the applicant
Mr. R. P. Vaishnav, Learned P.P. for the opponent-State

**APPLICATION FOR REGULAR BAIL UNDER SECTION
 483 OF THE BHARATIYA NAGARIK SURAKSHA
 SANHITA**

JUDGMENT

(1) Present application is filed after filing of charge-sheet, under Section 483 of the Bhartiya Nagarik Suraksha Sanhita by the applicant for regular bail in connection with the FIR being C.R. No. 11195010250741/2025 registered with Palanpur City (West) Police Station for

the offence punishable under Section 65(a), 65(e), 116(b), 98(2), 81 & 83 of Prohibition Act.

- (2) Applicant was arrested on 16.04.2026 and he was produced before the concerned Court on 17.04.2026 and at that time he was sent to judicial custody since then applicant is in judicial custody hence, he has preferred the present application under section 483 of the Bhartiya Nagarik Suraksha Sanhita.
- (3) Notice was issued. Upon notice, Learned Public Prosecutor Mr. R. P. Vaishnav appeared for the State while Learned Advocate Mr. M. M. Sindhi appeared for the applicant. Investigating Officer has filed an affidavit at Exh.7 and opposed the bail application and it is submitted that present applicant had demanded the muddamal liquor. It is also submitted that another accused Parth loaded the muddamal liquor in the offending car from Rajasthan and said muddamal liquor is to be supplied at Ahmedabad to the present applicant-accused and as such, the applicant-accused is involved in transportation of muddamal liquor in Gujarat State. It is also submitted that though charge-sheet came to be filed against applicant but at the same time, alleged offence occurred on 01.09.2025 and since then present applicant is absconding hence, warrant under Section 72 of B.N.S.S. has been issued against the applicant-accused as well as another accused and on the basis of

warrant applicant-accused has been arrested on 16.04.2026. It is also submitted that another 14 offences had been registered against the applicant and as such applicant is a habitual offender. It is also submitted that applicant is resident of Ahmedabad hence, if he is released on bail then there is no possibility of availability of the accused during the trial and he will again involve in such type of offence and there are all chances of tampering with the evidence hence, on the aforesaid grounds, it is requested to reject the present application.

- (4) Learned Advocate Mr. M. M. Sindhi, appearing for the applicant has submitted that, applicant has nothing to do with alleged offence, he has been falsely implicated in alleged offence. It is further submitted that no muddamal had been recovered from the applicant but only on the basis of statement of main accused, present applicant had been implicated in the alleged offence. It is also submitted that applicant is resident of Ahmedabad hence, there is no question of flee away. It is also submitted that earlier applicant had filed Criminal Misc. Application No.481/2026 before this Court for getting regular bail but said application had been rejected. Thereafter, applicant had filed Criminal Misc. Application No.10699/2026 before the Hon'ble High Court of Gujarat, Ahmedabad but subsequently said application had been withdrawn. Now,

investigation is over and charge-sheet came to be filed hence, present application is filed after filing of charge-sheet hence, there would be no purpose to keep the applicant behind the bar for indefinite period. If he is detained long time in judicial custody then his family has to face the consequences and has to face starvation as he is the only sole bread winner of his family. If, applicant is not released on bail, which amounts to pre-trial conviction, therefore, he has requested to enlarge the applicant on bail whatever conditions will be imposed by this Court, applicant shall abide and comply with the conditions and he has requested to allow the present application. It is also submitted that another accused Arshadkhan Rustamkhan Lalkhan Pathan had been enlarged on regular bail by Hon'ble High Court vide Criminal Misc. Application No. 19509/2025 hence, it is requested to enlarge the applicant on the ground of parity.

- (5) *Per contra*, learned Public Prosecutor Mr. R. P. Vaishnav, appearing for the State has vehemently opposed the bail application and submitted that if accused is released on bail then he will again involve in such type of offence, the accused will flee away from the justice and there is no possibility of availability of the accused during the trial, therefore, he has requested to dismiss the present bail application.
- (6) I have given thoughtful consideration to the arguments

advanced by learned advocates for both the sides and considered affidavit filed by the Investigating Officer. I have gone through the investigation papers and upon going through the F.I.R., it appears that, while police staffs were in patrolling at that time upon receiving information, they intervened Honda City Car No. GJ-08-BN-3377 and recovered Country made foreign liquor in all 813 bottles tune of Rs.2,73,981/- from offending car and driver of the said car had been arrested by the police and offence was registered against the accused under Section 65(a), 65(e), 116(b), 98(2), 81 & 83 of Prohibition Act.

- (7) 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.

- (8) 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.

- (9) 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.
- (10) 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.

- (11) 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 mainly submitted by the learned advocate for the applicant that another accused Arshadkhan Rustamkhan Lalkhan Pathan had been enlarged on regular bail by Hon'ble High Court vide Criminal Misc. Application No. 19509/2025 hence, it is requested to enlarge the applicant on the ground of parity. But, looking to the investigation papers and whole material available on record, it appears that muddamal liquor worth Rs.2,73,981/- had been recovered from the offending car. It further appears that present applicant is main accused who had demanded the muddamal liquor. It also appears that another accused Parth loaded the muddamal liquor in the offending car from Rajasthan and said muddamal liquor is to be supplied at

Ahmedabad to the present applicant-accused and as such, the applicant-accused is prima facie involved in transportation of muddamal liquor in Gujarat State. It also appears that alleged offence occurred on 01.09.2025 and since then present applicant is absconding hence, warrant under Section 72 of B.N.S.S. has been issued against the applicant-accused as well as another accused and on the basis of warrant applicant-accused has been arrested on 16.04.2026.

- (12) Looking to the whole material available on record, it appears that earlier applicant had filed Criminal Misc. Application No.481/2026 before this Court for getting regular bail but said application had been rejected. Thereafter, applicant had filed Criminal Misc. Application No.10699/2026 before the Hon'ble High Court of Gujarat, Ahmedabad but subsequently said application had been withdrawn. Now, investigation is over and charge-sheet came to be filed hence, present application is filed after filing of charge-sheet. But, at the same time, it appears that applicant is resident of Ahmedabad and another 14 offences had been registered against the applicant. As stated above, applicant had earlier filed regular bail application which was rejected. Not only that but Hon'ble High Court also rejected. Though, investigation is over and charge-sheet came to be filed and present application is filed after filing of charge-sheet but at the same time, in

the above circumstances, and more so when the previous application was rejected, there is sufficient prima facie material, and learned advocate Mr. M. M. Sindhi for the applicant, other than filing of charge-sheet, is not able to even remotely point out any change in the circumstances which would entitle the applicant to the relief that he seeks. Nothing new and overwhelming facts are brought before this court. It is now settled law that mere filing of charge-sheet by itself would not constitute change of circumstances. Hence, I am of the clear opinion that looking to the prima facie material emerging against the present applicant, no grounds exist as would entitle the applicant to the relief that he seeks. Hence, looking to the role as well as criminal antecedent of the present applicant and considering the gravity of offence, at this juncture, I am not inclined to grant bail to the present applicant. Hence, the following order is passed.

ORDER

The present regular bail application bearing **Cr.M.A. No. 711/2026** is hereby **rejected**.

Pronounced in the open Court today, this **25th** day of **June, 2026**.

PALANPUR.

Date: 25/06/2026

VISHAL

(Amitkumar J. Kanani)

I/c Sessions Judge,

B.K. District, Palanpur.

(Code : GJ00662)