



**IN THE COURT OF ADDITIONAL SESSIONS JUDGE
& SPECIAL JUDGE, BOTAD,**

Criminal Misc. Application No. 158 of 2026

[Atrocity Case No.07/2026]

Exh.:06

Applicants/Accused:

(1) **Najkubhai alias Ghughabhai Bavkubhai Dhadhal**

Aged: 21 years, Occupation: Agriculture,

(2) **Laljibhai alias Lalo Gabhabhai Limbadiya**

Aged: 29 years, Occupation: Agriculture,

Both Residing At. Refada,

Ta.:Barvala, Dist.:Botad.

At present in District Jail, Bhavnagar.

VERSUS

Opponent :

The State of Gujarat – Through P.P., Botad.

Appearance:-

Learned Advocate Mr.A.S.Metaliya for the applicants/accused.

Learned P.P. Mr.K.M.Makwana for the opponent – State

Subject:- Application U/s.483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (B.N.S.S.) for Regular Bail.

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

1. The present bail application has been preferred by the applicants/accused under Section-483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “the B.N.S.S.”) for releasing them on regular bail after filing of the charge-sheet in connection with the FIR being C.R.No.11190001250459/2025 registered with Barvala Police Station, Dist.:Botad for the offences punishable under Sections-118(1), 115(2), 351(3), 54 of the B.N.S. read with Sections-135 of the G.P.Act read with Sections-3(1)(r), 3(1)(s), 3(2)

(va) of the Atrocity Act. Subsequently, the I.O. has filed report to add section-117(2) of the B.N.S. The applicants/accused were arrested on 08/01/2026 in connection with the aforementioned offences and sent to judicial custody thus, the applicants/accused are in judicial custody.

2. The factual matrix of the FIR are such that the complainant has lodged the complaint on the ground that the accused persons with the help of each other came by carrying deadly weapons and inflicted injuries upon the complainant and witnesses and uttered filthy languages against the caste of the complainant and threatened to kill them. Thereby, the accused persons have committed the aforesaid offences.
3. On presentation of this application notice was issued to the State and the complainant. The Learned P.P. Mr. K.M.Makwana appeared for the state and the Investigating Officer has filed an affidavit-in-reply raising objections at Exh.5. The complainant remained absent though duly served. Heard Learned Advocates appearing for the parties. Perused the record.
4. Learned Advocate Mr.A.S.Metaliya appeared on behalf of the applicants/accused has advanced his oral arguments and submitted that the applicants are innocent and has been falsely implicated in the present case. He has submitted that the applicants have not inflicted any injury on the vital part of the complainant and the injured person is discharged from the hospital and is out of danger. Further, the applicants have not carried any deadly weapon. Further, the complainant filed complaint with malicious intention and the accused have not uttered any filthy language towards the caste of the complainant. He has further submitted that since the charge-sheet is filed no useful purpose would be served by keeping the

applicants in jail for indefinite period. He has further submitted that there is no prima facie case against the applicants and the trial takes time and if the applicants are kept in judicial custody it will be a pre-trial conviction. He has further submitted that the applicants are residing at village:Refada since many years and are doing agriculture work and not played any role at the time of incident. Further, the applicants are bread earner for their family and will not hamper or tamper with evidence, witnesses and complainant. He has also argued that the applicants are permanent resident of the address mentioned in the cause title and is not likely to flee. It is submitted that applicant are ready and willing to abide by all the terms and conditions that may be imposed by this Hon'ble Court if released on bail. So, in the interest of justice Regular Bail may be granted to present applicants.

5. *Per Contra* the Learned P.P. Mr. K.M.Makwana appeared on behalf of the State and filed affidavit of Investigating Officer vide Exh.5. He has strongly objected the present bail application and further submitted that, the accused persons have come together by carrying weapons and uttered filthy languages against the caste of the complainant and threatened to kill him and inflicted injuries upon the complainant and witnesses. He has further drawn attention towards the affidavit filed by the I.O. and submitted that the present applicants are having criminal antecedents and they have booked in other two similar offences punishable under the BNS, Prohibition Act and Atrocity Act. It is submitted that the applicants/accused are involved in serious charges under Atrocity Act and BNS in the present case. He has further submitted that the trial of the case is just commenced and all the material witnesses are yet to be examined and if the accused are released on bail at this stage, it may

cause the prejudice to the case of the prosecution. It is submitted that if the applicants are released on bail, they may jump the bail or tamper or hamper with prosecution evidence and/or try to win over the witnesses of the case. Hence, it is prayed to reject the present application.

6. Before advertent to the emergence of the factual matrix from the record of the case, it is worthwhile to comprehend the factors governing the grant or rejection of the bail given by the Hon'ble Apex Court in the Case of Sanjay Chandra v. CBI, that While granting bail, the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.
7. Now, at this this juncture, while deciding present regular bail application, Court cannot appreciate evidence on record, but at the same time Court can weigh according to the material available on record and has to see whether the prima-facie allegations made against the applicants/accused can be believed and the Court has to comprehend exact role attributed to the accused. On perusal of the Affidavit filed by the Investigating Officer and FIR and other relevant materials available on record, it transpires that, the present applicants/accused has prima facie involved in the alleged offence.
8. As per the catena of decisions of the Hon'ble Supreme Court and our own the Hon'ble High Court, the Court must evaluate the entire available material against the accused very carefully. The Court

must also clearly comprehend the exact role of the accused in the case. It is settled legal proposition in our country that, at the time of deciding the application under Section.483, the nature and gravity of the accusation and the exact role of the accused must be properly comprehended. Another material aspect is possibility of the applicant to flee from justice. The possibility of the accused likelihood to repeat similar or the other offences is also one of the parameters to take into consideration.

9. As per the above settled principles, it is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The entire discretion of grant or refusal of bail is left on the Courts and such discretion must be exercised on the basis of the available material and the facts of the particular case. It is pertinent to be noted that, at the time of deciding any application under the provision of Section.483, the appreciation and evaluation of the evidences is not permissible. But the materials produced by the contesting parties are required to be considered for fair adjudication of the application. Having perused the complaint filed against the applicants, it reveals that specific accusation is made against the applicants. It is one of the contention of the applicant and the Ld. Advocate appeared on behalf of the applicant that the present complaint is false and lodged frivolous. But in the present application, there are specific allegations against the present applicants/accused. On perusing the complaint, it clearly transpires that the accused persons have inflicted the blow of iron pipe on the complainant and witnesses and thereby they got serious injuries and taken treatment at the hospitals.
10. From the materials available on record, it prima facie appears that there is a specific accusation and attribution of role played by the

accused persons in the complaint. Looking to the gravity and nature of the accusation made against the applicants/accused and while balancing personal liberty and society's interest, it reveals that the personal liberty of the applicants/accused cannot be protected against the interest of the society. Moreover, as per the affidavit file by the I.O., one of the co-accused involved in the offence is yet to be arrested and the present applicants are having criminal antecedents and hence, there is possibility of the applicants/accused to flee from justice and to tamper or hamper with the evidences cannot be ruled out. Moreover, the trial of the case is just commenced and all important witnesses are yet to be examined and hence, only on the ground of filing of charge-sheet, the Court cannot grant this application at this stage. Therefore, considering the facts and circumstances of the matter on hand and entire materials available on record and also considering the gravity, nature and complexity of the crime and the role played by the accused and the statement of the complainant and witnesses before the police and past criminal antecedents of the applicants, it is not a fit case for granting regular bail to the accused persons. Hence, in the interest of justice following order is passed:-

::: O R D E R :::

The present **Criminal Misc. (Regular Bail) Application No.158 of 2026**, is hereby rejected.

Signed & pronounced in the open Court today i.e. on 13th March, 2026.

Date : 13/03/2026
Place: Botad.

(Jayeshkumar Kanubhai Prajapati)
Additional Sessions Judge
& Special Judge,
Botad.
[Code No.GJ00598]