



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

Criminal Misc. Application No. 165 of 2026
[Pocso Case No.47/2025]

Exh.:06

Applicant/Accused:

Prahladsinh Ramdevsinh Sarvaiya
Aged: 27 Years, Occupation: Service,
R/o. Block No.B-01, Room No.502,
Botad Police Head Quarter,
Police Line, Botad.
(At present in District Jail, Bhavnagar)

VERSUS

Opponents :

1. The State of Gujarat – Through P.P., Botad.
2. Aryan @ Kadak Altafbhai Multani
Aged:17 years,
R/o. Harankui, Mohammad Paigambar Society,
Opp. Post Office, Botad.

Appearance:-

Learned Advocate for the applicant/accused :	Mr. M.A.Yadav
Learned P.P. for the opponent – State :	Mr. K.M.Makwana
Learned Advocate for the complainant :	Mr. R.C.Prajapati

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 applicant/accused under Section-483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “the B.N.S.S.”) for releasing him on regular bail after filing of the charge-sheet in connection

with the FIR being C.R.No.11190002251353/2025 registered with the Botad Town Police Station, Dist.:Botad for the offence punishable under Sections-120(1), 127(8), 54 of B.N.S. and Sections-75 of the Juvenile Justice Act. Subsequently, the police filed report to add Sections-11(2), 12 of the Pocso Act and Sections- 115(2), 127(4) of the BNS. The applicant/accused was arrested in connection with the aforementioned offence on 03/11/2025 and sent to judicial custody thus, the applicant/accused is in judicial custody. Thereafter, the applicant/accused had preferred bail application bearing Cri.M.A. No.819/2025 on the basis of FIR and the same was rejected by the Hon'ble Court on dtd.12/12/2025. Now, in the present case, the investigation has been completed by the I.O. and the Charge-sheet has been filed which is numbered as Pocso Case No.47/2025, which is pending before this Court. This bail application filed on the ground of change in circumstances.

2. The factual matrix of the FIR are such that the complainant/victim who is minor lodged the complaint on the ground that accused police personnel Nos.1 and 5 brought him to the police station for questioning with regard to the previous theft case and kept him in illegal detention for nine days and all the accused police personnel with the help of each other and roped him with window and beaten him with help of belt and fist and also gave electric shock at the bottom of his leg. Thereby the accused have committed the aforesaid offences.
3. On presentation of this application notice was issued to the State and complainant. The Learned P.P. Mr.K.M.Makwana appeared for the opponent - State and the Investigating Officer has filed an affidavit-in-reply raising objections at Exh.5. The complainant has also raised strong objection against the present application by

filing objection at Exh.4. Heard the Ld. Advocates appearing for respective parties. Perused the record.

4. Learned Advocate Mr.M.A.Yadav appeared on behalf of the applicant/accused has advanced his oral arguments and submitted that the present applicant is innocent and has been falsely implicated in the offence. He has further submitted that the complaint is false and frivolous. He has submitted that the material collected during investigation, including the charge-sheet papers, statements of witnesses, and medical record, is internally inconsistent, materially contradictory, and devoid of reliable contemporaneous corroboration. He has further submitted that previously the applicant had filed bail application bearing Cri.M.A.No.819/2025 and same was rejected by the Hon'ble Court and thereafter, the applicant had filed temporary bail application for 5 days for the purpose of appearing in PSI and Lokrakshak examinations, which was granted by the Hon'ble Court. He has further submitted that in the present case, co-accused has been enlarged on bail and hence, this bail application has been filed on the ground of change in circumstances. He has further submitted that the prosecution witnesses have categorically denied the presence of the applicant at the place of the alleged incident and have denied to any alleged assault upon the complainant. He has further submitted that the complainant has not named the present applicant in the complaint. He has further submitted that the genesis of the alleged illegal custody is doubtful as the complainant had voluntarily accompanied the applicant and subsequently certain videos were circulated on social media falsely portraying that the complainant had been wrongfully detained by the police and hence, there is material contradictions and admissions on the part of the prosecution

witnesses, the origin of the alleged wrongful custody stands seriously impeached and rendered doubtful. He has further submitted that there are material contradictions in the statement of the complainant with regard to the nature, cause and circumstances of the alleged injuries and the medical papers do not attribute the alleged injuries to any custodial torture. He has further submitted that the allegation of continuous illegal detention for a period of 8–9 days in a functioning police station is inherently improbable and unsupported by any contemporaneous record. He has further submitted that none of the prosecution witnesses have corroborated the allegations of custodial assault or illegal detention. Further, the statements of the witnesses are purely hearsay in nature and no medical certificate of injuries has been produced in support of allegations of detention and assault. Further, the complainant himself has stated that no sexual harassment was committed and the allegations of physical assault are not supported by medical evidences. He has further submitted that the name of the present applicant has been falsely roped in the offence only on the basis of the statement of the co-accused. It is further submitted that the said co-accused, against whom more specific and direct allegations are levelled, has already been enlarged on bail by this Hon'ble Court. He has further submitted that the role attributed to the present applicant is comparatively lesser and therefore, on the principle of parity, the present applicant also deserves to be enlarged on bail. He has further submitted that the applicant has not committed any sort of illegal or wrongful act as alleged in the FIR and no case under Sections-11 and 12 of the Pocso Act made against the present applicant. He has further submitted that the incarceration of a serving police personnel, at this stage, would

not only cause irreversible prejudice to his career and reputation, but would also adversely affect his service record and future prospects. It is further the case of the applicant that he is being a police personnel if released on bail, is not likely to abscond. Trial of the case may take long time and if the applicant will remain in jail for long time, then in absence of bread winner his family will have to face starvation. The applicant will not tamper evidence of the prosecution by inducement or threat to witnesses and shall fully co-operate the police investigation. That the personal liberty of a person as guaranteed under the Article 21 of the Constitution of India is also violated. It is further argued that the applicant is a permanent resident of the address mentioned in the cause title and is not likely to flee. He has relied upon the various judgments of the Hon'ble Apex Court and submitted that the present applicant be released on bail as bail is the rule and jail is the exception. He further submitted that in the present case, the investigation has already been completed and the charge-sheet has already been filed, therefore, no purpose would be served to confine the accused person behind the bar for further period. He will abide by all the conditions likely to be imposed upon him by granting Regular Bail.

5. Per Contra the Ld. P.P. Mr. K.M.Makwana appeared on behalf of the State and submitted that looking to the gravity of the offence, the applicant is not deserving to be enlarged on bail. It is submitted that the FIR is clearly and directly pointing a finger and sets out the role played by the present applicant. He has also submitted that the applicant is in police department and hence, there is all possibility of tampering or hampering the evidence of prosecution and threatening of witness can not be ruled out. He has further drawn attention towards the affidavit filed by the I.O.

and submitted that the co-accused persons are yet to be arrested and the investigation in that regard is still in progress and in such circumstances, if the present applicant is enlarged on bail, there is every likelihood that he may coordinate with the absconding co-accused and thereby hamper the investigation. He further submitted that the trial is just commenced and all the material witnesses in the case are yet to be examined and if the applicant/accused is released on bail, he is likely to jump bail which may adversely affect the trial of the case. Thus, in view of the aforesaid grounds, Learned PP has submitted that no discretionary power can be exercised in favour of applicant at this stage. Accordingly, prays that the present bail application deserves to be rejected.

6. Learned Advocate Mr. R.C.Prajapati for the complainant has also strongly objected this application by filing objection at Exh.4 and submitted that the applicant is in police department and hence, there is all possibility of tampering or hampering the evidence of prosecution and threatening of witness can not be ruled out. He has further submitted that considering the seriousness of the allegations and there are no changed circumstances. Further, despite the knowledge of the age of victim, the accused persons have illegally detained the minor under the suspicion of theft and took him to the custody and roped him with the window and beaten him with help of belt and fist and also gave electric shock at the bottom of his leg(feet). It is further stated that the victim was admitted in ICU at Zydus Hospital due to acute kidney injury. He has also submitted that the other accused persons have not arrested and absconding. Learned Advocate for the complainant has relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Virupakshappa Gouda V/s.***

The State of Karnataka – CrI.A.No.601 of 2017. Therefore, considering the nature and gravity of the offence, it is prayed to reject the present bail application.

7. Before advertng 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.
8. 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 applicant/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 applicant/accused has prima facie involved in the alleged offence.
9. 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 of the B.N.S.S., 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.

10. 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 of the B.N.S.S., 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.
11. Looking to the gravity and nature of the accusation made against the present applicant/accused and considering the role attributed to the present applicant/accused and while balancing personal liberty and society's interest, it reveals that the personal liberty of the present applicant/accused is required to be protected against the interest of the society. Further, the personal presence of the present applicant/accused can also be secured by imposing stringent conditions upon him. From the records on hand it becomes clear that the present applicant/accused is having permanent residence of Botad and therefore, his personal presence can easily be secured. At the same time to protect the witnesses from being influenced, stringent conditions is required to be imposed and there is no any circumstances which can point

out any doubt about tampering or hampering with evidences. The complainant is discharged from the hospital as he was not sustained any grievous injury and now he is out of danger, the charge-sheet has been filed and there is no remain investigation or interrogation in the alleged such offence. Further, the judgment cited by the Ld. Advocate for the complainant pertains to a different set of facts and therefore cannot be applied to the present case. Moreover, in the present case, this Court has granted the bail to other co-accused and hence, on the ground of parity taking into consideration the guiding principles, this aspect can be looked into by the Court while adjudicating the bail application, so, this ground is also considered by this Court at this juncture.

12. In view of the above discussion and materials available before this Court at this point of time, there is justifiable reason to release the present applicant/accused on regular bail by exercising the discretion, hence in the interest of justice following order is passed:-

:: ORDER ::

1. The present **Criminal Misc. (Regular Bail) Application No.165 of 2026** is hereby allowed.
2. The applicant/accused is ordered to be released on regular bail in connection with the FIR being C.R.No.11190002251353/2025 registered with the Botad Town Police Station, Dist.:Botad for the offences punishable under the Sections-120(1), 127(8), 54, 115(2), 127(4) of B.N.S. and Sections-75 of the Juvenile Justice Act and Sections-11(2), 12 of the Pocso Act, on furnishing Personal Bond of **Rs.20,000/- (Rupees Twenty Thousand Only)** with one surety of like amount by the applicant/accused to the satisfaction of the trial court, on the following conditions that:-
 - (a) The applicant/accused shall not directly or indirectly make

any inducement, threat or promise to any person acquainted with the facts of the case.

- (b) The applicant/accused shall not leave the territory of India without prior permission of the trial Court.
- (c) The applicant/accused shall give correct permanent residential address, mobile number, identity proof to the police.
- (d) The applicant/accused shall submit his passports before the concerned trial court within 3 days from today.
- (e) The applicant/accused shall not take undue advantage of his liberty.
- (f) The applicant/accused shall not act in a manner injurious to the interest of the prosecution.
- (g) The applicant/accused is directed to appear before the trial court on each and every date of trial till final order is passed.
- (h) If the applicant/accused breach any of the above conditions, then bail & bond will be automatically stand canceled.

3. Yadi be sent accordingly.

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(Pocso Court),
Botad.

[Code No.GJ00598]

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