

GJCU080004972026



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**IN THE COURT OF ADDITIONAL SESSIONS JUDGE
CHHOTAUDEPUR AT BODELI**

Criminal Misc. Application No. 209/2026.

Exh.

Applicant

: Sunilbhai Jashubhai Tadv,

Age:- 22 Years , Occupation:- Labour work

**Residing at :- Aritha, Taluka :- Sankheda,
District-Chhotaudepur.**

Vs.

Opponent

: State of Gujarat.

Application u/s. 483 of B.N.S.S. for Regular bail.

APPEARANCE :

Ld. Advocate for the applicant : Mr. V. A. Soni

Ld. A.P.P. for the State. : Mr. J. B. Purani

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

1. The present application is preferred by the applicant-accused under section **483 of the Bharatiya Nagarik Suraksha Sanhita-2023** for releasing him on regular bail in connection with the **FIR being No.11184009260241/2026** registered with **Sankheda Police Station** for the offenses punishable under **Sections 137(2), 87, 64(2)(m), 65(1) of The Bharatiya Nyaya Sanhita, 2023** read with **Sections 4 and 6 of POCSO Act.**

2. Succinctly stated, the facts of the case, as emerging from the F.I.R., are that on the intervening night of 05/06-02-2026, the accused, Sunilbhai Jashubhai Tadv, allured and enticed the minor daughter of the complainant, took her out of her lawful guardianship with the intention of marrying her, and kidnapped her from her house on the night of 05-02-2026. Thereafter, the accused kept her with him at village Bechara, Taluka Dangdhara, District Surendranagar, and during the said period, committed forcible sexual intercourse with her against her will. Initially, on account of fear of social stigma, no complaint was lodged; however, subsequently, the complainant approached the police and lodged a complaint against the present applicant-accused. On the basis of the said complaint, the F.I.R. came to be registered, and the applicant-accused was arrested on 13-05-2026 and remanded to judicial custody at Chhotaudepur Sub-Jail. Hence, the present application has been preferred before this Court seeking release of the applicant-accused on regular bail in connection with the aforesaid offence.
3. Upon service of Notice to the Opponent-State, Ld. A.P.P. Mr. J. B. Purani remained present and the Investigating Officer has filed affidavit vide Exh.6 and submitted that looking to the nature and gravity of the offence, this application be rejected. On service of notice to the complainant, she is not present before the Court.
4. Ld. Counsel Mr. V. A. Soni appearing for the applicant-accused has reiterated the facts of the application and further submitted that the applicant-accused is innocent and he has been falsely implicated in the alleged offence. It is further submitted that the investigation of the present offence is completed and charge-sheet has already been filed and POCSO Case No.08/2026 is pending before this Court. That the applicant-accused has not played any

direct or indirect role in the alleged offence. It is submitted that the applicant-accused is not having any criminal background and he is permanent resident of village Aritha, Ta. Sankheda, District Chhotaudepur and he would not abscond and will abide by all the terms and conditions imposed upon him. It is further submitted that that there was a delay in lodging the complaint and there is no prima facie case against the applicant and he is a young boy with a bright future. It is submitted that refusal of bail would amount to violation of the applicant's fundamental rights guaranteed under Article 21 of the Constitution of India. Considering the provisions of Section 483 of the BNSS, the nature of allegations, absence of specific details, and overall circumstances, the applicant deserves to be enlarged on bail, and he assures full cooperation during trial and readiness to furnish bail as may be directed by this Hon'ble Court.

5. *Per contra*, Ld. A.P.P. Mr. J. B. Purani appearing for the Opponent-State has objected this application and drawn attention of this Court towards the affidavit filed by the Investigating Officer vide Exh.6 and further submitted that, the present applicant-accused enticed the minor daughter of complainant aged 14 years and 11 months & 19 days old; abducted her and took her away from the custody of her parents and committed rape on her. It is submitted that the applicant-accused has played an active role in the commission of the offence. It is further submitted that the present applicant-accused committed rape on a minor girl and there is high possibility that the victim girl as well as complainant shall be threatened and pressurized by the present applicant-accused to change their version, if the applicant-accused is released on bail. Hence, it is submitted that the present application be rejected.

6. Now, before adverting 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. 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, larger interests of the public/ State and other similar considerations.
7. I have heard the learned counsel appearing on behalf of the respective parties and have perused the police papers as well as the affidavit filed by the Investigating Officer at Exh.6. On perusal of the record, it is revealed that the investigation stands completed, the charge-sheet has been filed, and POCSO Case No.08/2026 is pending before this Court. The trial is presently underway and, therefore, the possibility of the applicant/accused influencing the prosecution witnesses, more particularly the minor victim and her family members who reside within the same vicinity, cannot be ruled out. This Court has also perused the medical report as well as the statement of the victim recorded by the police under Section 183 of the B.N.S.S. On perusal of the same, it is revealed that the applicant/accused has established physical relationship with the victim at the place where both the victim and the accused stayed. Hence, from the medical history and the statement recorded under Section 183 of the B.N.S.S., there is prima facie, involvement of the present application/accused in the commission of the alleged offence against the victim, who is a girl aged 14 years, 11 months at the time of incident.

8. Upon a prima facie evaluation of the material on record, including the medical evidence, it clearly emerges that the allegations levelled against the applicant-accused are of a serious and grave nature, involving the kidnapping of a minor girl and the commission of penetrative sexual assault punishable under the provisions of the POCSO Act. It is the case of the complainant that the applicant-accused allured the minor victim, aged 14 years, 11 months and 19 days, on the pretext of marriage, kidnapped her, and thereafter committed forcible sexual intercourse with her against her will.
9. The defence raised on behalf of the applicant-accused touching upon false implication, delay in lodging the F.I.R., and the alleged voluntary conduct of the victim, cannot be accepted at this stage. It is well settled that in offences involving a minor victim, the question of consent is wholly immaterial, as a minor is deemed incapable in law of giving valid consent. The Hon'ble Supreme Court, in **Independent Thought v. Union of India, (2017) 10 SCC 800**, has authoritatively held that any act of sexual intercourse with a girl below eighteen years of age is rape, regardless of consent, and that the concept of "consent" is legally irrelevant where the victim is a minor. Consequently, the alleged voluntary conduct of the victim, even if assumed for the sake of argument, does not absolve the applicant-accused of the specific and subsequent allegations of forcible sexual assault levelled against him.
10. Insofar as the delay in lodging the complaint is concerned, the same stands satisfactorily explained on account of the fear of social stigma entertained by the victim's family, which is a natural and probable human reaction in offences of this nature. The

Hon'ble Supreme Court, in **State of Punjab v. Gurmit Singh, (1996) 2 SCC 384**, has held that in cases involving sexual offences against women and children, a delay in lodging the F.I.R., occasioned by hesitation of the family to go to the police and the inherent risk of social ostracization, cannot be treated with suspicion and does not, by itself, render the prosecution case doubtful.

11. Thus, having regard to the nature and gravity of the accusations, the tender age of the victim, the specific and active role attributed to the applicant-accused, the severity of punishment prescribed under the relevant provisions of the POCSO Act and the Bharatiya Nyaya Sanhita, and the real apprehension of the applicant-accused influencing/tampering with the prosecution witnesses if enlarged on bail at this stage, this Court is of the considered view that a strong prima facie case is made out against the applicant-accused. Hence, the present bail application deserves to be rejected, and the following order is passed:—

: ORDER :

The present Regular Bail Application No. 209 of 2026 filed by the applicant-accused **Sunilbhai Jashubhai Tadvi**, in connection with Cr. No.-**FIR being No.11184009260241/2026** registered with **Sankheda** Police Station is hereby, **rejected**.

Pronounced and signed today on this 1st Day of July, 2026.

Date : 01/07/2026.
Place: Bodeli.

[S. P. Shankar]
UIC No. GJ01601
Addl. District & Sessions Judge,
Chhotaudepur at Bodeli.