

GJCU080005032026



Received on 29 06 2026
 Registered on 29 06 2026
 Decided on 07 07 2026
 Duration : Y: 00 M: 00 D: 09

Exh. 00

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

Criminal Misc. Application No. 211 of 2026

Applicant No. : Bariya Rohitbhai Vanarsinhbhai
Age:- 30 Years
Occupation:- Labour work
 Residing at Khokhariveli, Taluka Bodeli,
 Distrcit-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. D. R. Panchal
 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. 11184001241371/2025 registered with **Bodeli Police Station** for the offenses punishable under **Sections 103(1) and 309(6) of BNS, 2023 along with under section 3(2)(5) of the Atrocity Act.**

2. Succinctly stated, the facts of the case, as emerging from the First Information Report, are that on 06/09/2024 between 16:30 hours and 07/09/2024 at about 09:30 hours, the present applicant-accused Rohitbhai Vanarsinh Baria, allegedly assaulted the deceased Sukhrambhai Harsingbhai Rathwa, aged about 24 years, in a ravine situated between Pachchisgam and Khokhriveri villages, caused fatal injuries, threw the dead body into the ravine water, and took away approximately Rs.1,00,000/- in cash along with the thumb machine issued by A.U. Small Finance Bank. The deceased was subsequently found dead, and as per the post-mortem report, the cause of death was head injury and pressure on the neck. On the basis of the aforesaid facts, the present offence came to be registered against the present applicant-accused. The applicant was arrested on 13/09/2024 and has been in judicial custody since 14/09/2024. Earlier the applicant moved an application before this court seeking to release him on Regular Bail vide Criminal Misc. Application No. 296/2025 which came to be rejected with reasoned order on dtd. 12/01/2026.
3. The Ld. counsel for the applicant-accused respectfully submitted that the applicant is innocent and has been falsely implicated in the alleged offence. It is submitted that the charge-sheet has already been filed on 03/12/2024 and the case is registered as ATRO Case No. 14/2024, and therefore, no further custodial interrogation of the applicant is required. It is further submitted that the alleged

incident is stated to have occurred between 16:30 hours on 06/09/2024 and 09:30 hours on 07/09/2024, whereas the FIR came to be lodged on 11/09/2024, showing an unexplained delay of four days. It is also submitted that the inquest panchnama initially recorded the cause of death as drowning, which creates serious doubt about the prosecution case. It is submitted that the FIR does not attribute any specific overt act to the applicant and that the applicant has been arrested merely on suspicion. It is further submitted that the applicant has not committed any offence punishable with death or imprisonment for life and that no prima facie case is made out against him even on a bare perusal of the charge-sheet papers. The applicant is the sole earning member of his family, having to maintain his elderly parents and two minor children, and continued incarceration would cause irreparable hardship to his family. Relying upon the judgments of the Hon'ble Supreme Court in *Sanjay Chandra v. CBI* and *Javed Ghulam Nabi Sheikh v. State of Maharashtra*, it is submitted that bail is the rule and jail is the exception and that the applicant cannot be kept in judicial custody for an indefinite period, particularly when the trial is likely to take considerable time. Therefore, the learned counsel prays that the applicant–accused may kindly be enlarged on bail on such terms and conditions as may be deemed fit and proper by this Court in the interest of the justice.

4. The Learned Additional Public Prosecutor, appearing on behalf of the State, vehemently opposed the present bail application and argued as per the affidavit at Exh. 06 filed by the IO and prayed before this court that the present bail application be rejected.

5. Now, 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. 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.
6. I have heard the learned counsel for the applicant–accused as well as the learned Additional Public Prosecutor for the State, and have carefully perused the F.I.R., the seizure panchnama, the affidavit filed by the Investigating Officer at Exh.-06, the post-mortem report, the charge-sheet papers and the overall material placed on record.
7. At the outset, it deserves to be noted that the present is a successive application for regular bail. The earlier bail application preferred by the applicant came to be rejected by this Court. The present application has been filed after the filing of the charge-sheet and after commencement of the trial. It is well settled that a successive bail application is maintainable only if there is a substantial change in the facts or circumstances after rejection of the earlier application. Mere filing of the charge-sheet does not, by itself, constitute a substantial change in circumstances warranting grant of bail. The applicant is, therefore, required to demonstrate a material change in circumstances which would justify taking a different view from the one taken while rejecting the earlier

application.

8. It is submitted by the Ld counsel for the accused that trail in the present matter is going on and around 10 witnesses has been examined by the prosecution. He further submitted that none of the witnesses has support to the case of the prosecution. He further submitted that prosecution has relied upon one eyewitness who has last seen the deceased in the company of the applicant accused however the said witness when examined by the prosecution has not supported the case of the prosecution. Nothing substantial as emerged from his testimony so as to established the last seen circumstances. He also submitted that the applicant is remain in judicial custody for a considerable period of time and the trial is not likely to to be completed in near future as around 73 witnesses has been cited by the prosecution in the charge sheet.
9. Per contra, it is submitted by the Ld APP that there are ample evidnace against the applicant-accused and just because some of the witnesses has not supported the case of the prosecution does not make the case of the prosecution doubtful. It is further submitted that the prosecution case does not rest merely upon the last seen theory and that the testimony of one witness not supporting the prosecution would not demolish the entire prosecution case. It is further submitted that the trial is already in progress and several material witnesses are yet to be examined. Hence, the applicant does not deserve the discretionary relief of bail.
10. Having considered the rival submissions and upon perusal of the material available on record, this Court finds that the present prosecution is admittedly based upon circumstantial evidence. It is

equally well settled that in a case founded upon circumstantial evidence, each circumstance has to be appreciated not in isolation but cumulatively, and the complete chain of circumstances is required to be examined only after the entire evidence is adduced during the course of trial. At the stage of considering a bail application, the Court is not expected to meticulously appreciate the evidence or record findings regarding the guilt or innocence of the accused.

11. On perusal of the record it transpires that the prosecution has relied upon several incrementing circumstances and not on last seen theory. The prosecution has placed reliance upon the alleged motive arising from the precarious financial condition and outstanding loan liabilities. The prosecution has also relied upon the alleged telephonic conversation that took place on the day of incident i.e 06/09/2024 at around 09:48 , 15:12, 15:16 and 15:20 hrs. and also on the recoveries allegedly effected at the instance of the applicant pursuant to his disclosure statement; recovery of the biometric thumb impression device issued to the deceased by the bank; recovery of cash, tablet, bag and other robbed articles; and other surrounding circumstances.
12. It is also pertinent to note that although ten prosecution witnesses have already been examined, the trial has not yet concluded. Several material witnesses are still required to be examined. At this stage, this Court cannot undertake a detailed appreciation of the evidence already recorded or record findings on the evidentiary value of individual witnesses, as any such observation may prejudice either side during the course of trial.
13. It is also to be noted that the offence alleged against the present

applicant-accused is of heinous nature punishable life imprisonment or death.

14. In view of the aforesaid discussion and considering the facts and circumstances of the case, the gravity, nature and complexity of the offence, the role attributed to the present applicant-accused, the existence of a strong prima facie case, the absence of any change in circumstances, the fact that material evidence is yet to be recorded, and keeping in view the larger interest of society, this Court is of the considered opinion that this is not a fit case for granting regular bail to the present applicant-accused. Hence, the following order is passed:-

: ORDER :

1. The present Regular Bail Application No. 211/2026 filed by the applicants-accused **Bariya Rohitbhai Vanarsinhbhai** in connection with Cr. No. **11184001241371/2025** registered with **Bodeli** Police Station is hereby, **rejected**.

Pronounced and signed today on this 7th Day of July, 2026.

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

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