



सत्यमेव जयते

IN THE COURT OF HON'BLE ADDITIONAL DISTRICT
AND SESSIONS JUDGE, COURT No:03, AT: DAHOD.

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CRIMINAL MISC. APPLICATION NO. 222 OF 2026.

Applicant :

1. Dilipbhai Ghanshyambhai Shankatprasad
Shrivastava,

Aged : 40 years, Occupation : Marketing,
Residing at : Kikandarpur, Parsrampur,
Basti, Uttar Pradesh.

2. Mahaveersingh Abhaysingh Shivnathsingh
Chauhan,

Aged : 39 years, Occupation : Trader,
Residing at : Ratitalai, Kumbhalgarh,
Rajsamad, Rajasthan.

(At present accused in judicial custody @
Sub-Jail, Dahod)

Versus**Opponent :**

1. The State of Gujarat

FOR Applicant : Ld. Ad. Mr. J.P. Dixit.
FOR Respondent : Ld. DGP Mr. A.K. Parikh.

Order below Regular Bail Application

[1] The present application has been preferred by the applicant-accused seeking regular bail for the alleged commission of the offence registered at "A" Divi. PS, Dahod vide CR No:11821011252282/2025 u/s 3(5), 61(2), 316(2), 318(4) of BNS.

[2] In brief, the allegations against the applicant-accused as per the complaint are such that, the accused persons, in connivance with each other, have first gained confidence of the complainant who is in the business of trading of pulses and of other grain-traders of Dahod by first placing small orders and paying the payment

on due time and thereafter placed huge quantity orders totalling Rs.35,91,000/- and after receiving the goods of placed orders, accused duped their money.

Hence, the FIR to that effect came to be registered under above mentioned sections.

[3] Learned advocate for the accused-applicant has stated that the accused has not committed any alleged offence. Further, it is submitted that the accused-applicant are falsely implicated in the alleged offence. Subsequently, there is no prima facie case against the applicant. It is submitted that the applicant are permanently residing at the given address and they had not conspired with co-accused and committed the alleged offence. Ld. Ad.

further stated that, this is the commercial transactions and hence the nature of the incident is of civil in nature and hence application should be granted. Ld. Ad. further stated that, if the applicant would be released on bail, then they are not likely to abscond as they have roots in the society. He further stated that, charge-sheet in this case has been filed and the same is registered vide Criminal Case No:1332/2026 and therefore considering the changed circumstances, present bail application should be allowed. Therefore, it has been urged to release applicant on regular bail.

[4] The Ld. DGP appearing for the State has strongly opposed the present bail

application and submitted that, present applicant-accused has played an active role in commission of the crime and they assured the innocent traders i.e. complainant and other traders as mentioned in the FIR that they will receive their payments in due time and by not making any payments towards the pulses etc. as ordered and received by accused, the applicants have cheated them with huge money which amounts to total Rs.35,91,000/-. Therefore, this being the economic and well planned offence committed by the applicant, the benefit of bail should not be extended to them. Id. DGP has argued to reject the bail application.

[5] I have heard the rival submissions of the Learned Advocate for the applicant as well as Learned APP for the State and perused

the entire record alongwith affidavit of the I.O. and police papers.

[5.1] It reveals from the police papers, that accused indulged in criminal breach of trust and cheating of Rs. 35,91,000/-. It also reveals from the affidavit of IO that, Accused indulged in like crimes as applicant-accused Dilipbhai Ghanshyambhai booked under three like crimes and applicant-accused Mahavirsing Abhaysing also booked under three like crimes. It also transpires that one big racket of cheating is being run and managed by all the accused persons in connivance and in conspiracy with each other for their personal financial gain.

It also reveals from the police papers

that, present applicants are one of the prime accused alongwith absconded co-accused, and present accused and others have used their knowledge for nefarious activity for the commission of the crime. Thus, the applicants are the beneficiaries of the proceeds of crime.

[5.2] This Court herein refers to the judgment of the Hon'ble Apex Court of SLP(Cri) No: 19708 of 2025, Rakesh Mittal Vs Ajay Pal Gupta @ Sonu Chaudhary and another, Dt:17-02-2026 [Coram: Hon'ble Mr. Justice Sanjay Kumar & Hon'ble Mr. Justice K. Vinod Chandran saheb].

The relevant para:15,16,17,18,19,20 are as under;

15. We are also conscious of the fact that this is not a case of cancellation of bail but a challenge to the validity of an order

granting bail. Even in cases of cancellation of bail, the power to do so is not just limited to occurrence of supervening circumstances as the Court has the inherent power and discretion to cancel the bail of an accused even in the absence of supervening circumstances (See **Dolat Ram and others vs. State of Haryana (1995) 1 SCC 349**). One of the grounds enumerated therein, as relevant for exercise of such power, is where the past criminal record and the conduct of the accused are completely ignored while granting bail.

16. **Neeru Yadav vs. State of Uttar Pradesh and another (2014) 16 SCC 508** was a case where bail had been granted to a history-sheeter, charge-sheeted for a number of heinous offences, on the ground of parity. Observing that liberty is a priceless treasure for a human being and is a cardinal value on which civilization rests, this Court cautioned that liberty of an individual would however not be absolute as society, by its collective wisdom and through the process of law, can withdraw liberty that has been sanctioned to an individual when such an individual becomes a danger to the collective and to the societal order. It was further observed that the High Court must ³ (1995) 1 SCC 349 ⁴ (2014) 16 SCC 508 exercise its discretion cautiously and when there is likelihood of offences being repeated or there is a danger of justice being thwarted by grant of bail, these are factors which should be taken into consideration while dealing with an application for bail. It was further observed that cancellation of bail if the accused misconducted himself or due to some intervening circumstances is in a different compartment altogether from examination of an

order granting bail which was unjustified, illegal or perverse. It was held that, if in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of or it is founded on irrelevant considerations; indisputably, the superior court can set aside such a bail order. Per this Court, such a case would belong to a different category and in a separate realm, as it delves into the justifiability and soundness of the order passed by the Court.

17. *Again, in Neeru Yadav vs. State of UP and another (2016) 15 SCC 422, this Court observed that a crime, though committed against an individual, may not retain an individual character as the victim may be an individual but, in the ultimate eventuate, it is the society which is the victim. Further, observing that a crime, as is understood, creates a dent in the law-and-order situation and disturbs orderliness, this Court held that an individual can 5 (2016) 15 SCC 422 enjoy his liberty which is definitely of paramount value but he cannot be a law unto himself and he cannot cause harm to others. It was held that an individual cannot be a nuisance to the collective or a terror to the society. Reference was made to the observations of E. Barrett Prettyman, Chief Judge of the US Court of Appeals (Retired), which read thus:-*

“In an ordered society of mankind there is no such thing as unrestricted liberty, either of nations or of individuals. Liberty itself is the product of restraints; it is inherently a composite of restraints; it dies when

restraints are withdrawn. Freedom, I say, is not an absence of restraints; it is a composite of restraints. There is no liberty without order. There is no order without systematised restraint. Restraints are the substance without which liberty does not exist. They are the essence of liberty. The great problem of the democratic process is not to strip men of restraints merely because they are restraints. The great problem is to design a system of restraints which will nurture the maximum development of man's capabilities, not in a massive globe of faceless animations but as a perfect realisation, of each separate human mind, soul and body; not in mute, motionless meditation but in flashing, thrashing activity."

Noting that the High Court, in that case, had totally ignored the criminal antecedents of the accused and what had weighed with the High Court was only the doctrine of parity, this Court set aside the bail granted to the accused therein.

- 18. In *Sudha Singh vs. State of Uttar Pradesh and another* (2021) 4 SCC 781, a 3-Judge Bench of this Court was dealing with the validity of a bail order passed in favour of an alleged contract killer. This Court found that the High Court had simply ignored the criminal antecedents of that accused. It was observed that though liberty is important, even that of a person 6 (2021) 4 SCC 781 charged with crime, it is equally important for the Courts to recognize the potential threat to life and liberty of victims/witnesses, if such an accused is released on bail.**

19. *Though the observations made in some of the above cases were in the context of heinous offences, which is not the case presently, we may note that the value of life and liberty of members of society is not limited only to their 'person' but would also extend to the quality of their life, including their economic well-being. In offences of a pecuniary nature, where innocent people are cheated of their hard-earned monies by conmen, who make it their life's pursuit to exploit and feast upon the gullibility of others, the aforestated factors must necessarily be weighed while dealing with the alleged offenders' pleas for grant of bail.*
20. *In the case on hand, the investigation against respondent No.1, as is borne out by the counter affidavit filed by the State, clearly demonstrates that he is a habitual offender. The number of diverse and unconnected aliases, fake IDs and the deliberate changes of identity, including his father's name, clearly manifest his nefarious intention to dupe innocent victims and cheat them.*

[5.3] This being the well-designed economic-heinous crime and therefore mere filing of charge-sheet in the case does not term as changed of circumstances in favour of accused-applicant.

If the bail granted then there will be

adverse impact upon the trial and the public interest also would suffer as a consequence. As per the record, material witnesses are yet to be examined in the case. Considering the same, it can be said that the applicant if released on bail, may try to tamper or hamper with evidences or may try to influence the witnesses.

[6] Present accused-applicant arrested and produced before learned JMFC Court and at present, they are in judicial custody.

Considering the role of the the applicant, at the relevant point of time, applicant-accused alongwith other accused had played a key-role in the entire scam.

Considering the facts as discussed above, the present application does not

appear to be fit to exercise the discretion in favour of the applicant to release them on bail.

Accordingly, the following order is passed.

:: O R D E R ::

[1] The application filed by the applicant-accused [1] **Dilipbhai Ghanshyambhai Shankatprasad Shrivastava,**
[2] **Mahaveersingh Abhaysingh Shivnathsingh Chauhan,** for regular bail is hereby rejected.

Pronounced and declared in open Court on this 6th day of March, 2026.

Place: Dahod.
Dt:06-03-2026

[Sandipsinh G. Dodiya]
UIC No:GJ00902
3rd Addl. District & Sessions Judge,
Dahod.