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IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE
AND JUDGE OF SPECIAL COURT UNDER POCSO ACT,
DEVBHOO MI DWARKA @ DWARKA.
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Criminal Misc. Application No. 40 of 2026

Riyaben @ Kitu Prembhai Sharma.

Age about : 24 years, Hindu by Religion,

Occupation : Beauty Parlor, Raiya Gam,

202, Sun Flower Complex, Rajkot,

Taluka & District : Rajkot.

originally belongs to Village : Sabaz,

Taluka & District : Jaipur.

At present in District Jail, Jamnagar. **APPLICANT**

Vs.

The State of Gujarat.

Through, The District Government Pleader,

District Court : Devbhoomi Dwarka. **OPPONENT**

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**Application u/s. 483 of the Bhartiya Nagrik Suraksha Sanhita,
2023 for Regular Bail.**

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APPEARANCE :

for Applicant Ld. Advocate : Ms. D. B. Mahant.

for Opponent State Ld. APP : Mr. A. H. Vyas.

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

1. The present bail application is preferred by the applicant under section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for the shake of brevity and convenience herein after referred to as "B.N.S.S.") for releasing her on regular bail in connection with the offence punishable u/s. 137(2), 87 of the Bhartiya Nyay Sanhita,

2023 (for the shake of brevity and convenience herein after referred to as "B.N.S.") and also u/s. 12 of the Protection of Children from Sexual Offences Act, 2012 (for the shake of brevity and convenience herein after referred to as "POCSO Act") registered with Kalyanpur Police Station "A" part Cr. No. 11185003260252 of 2026. For the said offence the applicant-accused has been arrested on 05.03.2026 and produced before the Special Court under the POCSO ACT wherein he was sent to Judicial Custody. The investigation is still in progress and this is first bail application is filed.

2. The applicant/accused has specified the grounds for her entitlement for regular bail in this application filling during investigation and which are, that the applicant is innocent and false complaint has been lodged and there is no prima facie case against the applicant. That the FIR does not disclose any offence against the applicant and on perusal of the FIR it clearly appears that said FIR was lodged only relying upon presumption, assumption and surmises. The concocted story has been established by the prosecution. It is submitted that present applicant has no criminal antecedents. It is submitted that investigation is now almost completed and hence, there is no chances of hampering or tempering with the evidence. It is also submitted that custodial interrogation of the present applicant-accused is not required. It is also submitted that the applicant is ready and willing to abide by any condition imposed by the Hon'ble Court. Therefore, the applicant is required to be released on regular bail.
3. On presentation of this application notice was issued to the State and Ld. A. P. P. Mr. A. H. Vyas appeared for the State and opposed the present bail application. I have heard the Ld. Advocate for the parties. I have also perused the statement of victim u/s. 183 of the B.N.S.S.

4. Ld. Advocate for the applicant Ms. D. B. Mahant appeared on behalf of the applicant/accused has advanced his oral arguments and submitted that the applicant/accused was not involved in the crime and she has been falsely implicated in the alleged crime. It is submitted that entire offence was registered only relying upon the presumption assumption and surmises. It is also argued that the applicant/accused has no criminal antecedents and she is of very young age. It is also submitted that investigation is almost completed and hence, present applicant-accused is required to be enlarged on regular bail because now there is no possibility of tampering or hampering of evidence and if the present accused is enlarge on regular bail she may be able to face a fair trial and as the present applicant/accused has been implicated in the false offence there is no reason for kept her in the Judicial Custody for entire trial. Hence, it is prayed to allow present application and the release the applicant/accused on regular bail.
5. Per contra, Ld. A. P. P. Mr. A. H. Vyas appeared on behalf of the State has strongly objected the present bail application and further argued that present applicant/accused is involved in heinous crime of kidnapping the child-girl of having the age of 14 years. The Ld. A. P. P. further submitted that looking to the gravity and nature of the offence and specific role assigned to the applicant/accused and more particularly the entire offence was done by the co-accused with the help and aid of the present applicant-accused and also considering the punishment provided for the alleged offence the present bail application may be rejected.
6. Having heard the arguments advanced by both the parties here in present case, considering the fact that applicant-accused is a lady and only facing charge of abetment and is in judicial custody since

last more than 7 days and considering the fact that no serious criminal antecedents of applicant-accused are brought on record and considering the fact that investigation is almost completed and custodial interrogation of the applicant-accused is no more required and considering the fact that applicant-accused is permanent resident of Rajkot doing work of beauty parlor and having family coupled with the fact that there are no fair chances of investigation and trial being completed in near future and considering the fact that presence of present applicant-accused at the time of investigation & trial can be secured, without further venturing into the merits and demerits of the case which would prejudice the case of either of the parties, I am of the opinion that this is a fit case to exercise the discretion to enlarge the applicant-accused on bail. Further, as per the decision laid down by the Hon'ble High Court and Hon'ble Supreme Court in the case of Siddhram Mahetre and in the case of Sanjay Chandra Vs. CBI, " Bail is the rule and Jail is an exception", So, personal liberty is equally important in comparison to social interest, therefore there may not be pre-trial punishment.

7. Moreover, pursuant to the allegations leveled against the present applicant-accused, if liberty is curtailed with heavy conditions, in that case pre-trial punishment can be prevented as trial is likely to take long period. Therefore, if the discretion is exercised, justice would be served.
8. It is pertinent to note that by enlarging applicant-accused on bail, the applicant-accused is not declare as innocent or acquittal but she has to face investigation and trial, if charge-sheet is filed. Therefore, in my humble view this is a fit case to exercise the discretion vested u/s. 483 of BNSS by imposing stringent condition and heavy surety. Hence, in the interest of justice, I pass the following order.

::: O R D E R :::

- (1) The present regular bail application, is hereby, **granted**.
- (2) The applicant/accused i.e. **Riyaben @ Kitu Prembhai Sharma** of the address shown in the cause title, is hereby, released on bail on furnishing personal bond of **Rs.25,000/- (twenty five thousand) and one surety of like amount** for the offences under sections 137(2), 87 and u/s. 12 the Pocso Act registered with Kalyanpur Police Station vide Cr. No. 11185003260252 of 2026, on the following conditions that ;

i.	<i>The applicant/accused should not contact prosecution witness including victim either physically or through mobile phone or through social media.</i>
ii.	<i>The applicant/accused shall furnish hers present and/or original (Native) residential address along-with the copy of proof thereof to this Court within 3 days of her release.</i>
iii.	<i>The applicant/accused shall not leave the India without prior permission of this Court.</i>
iv.	<i>The applicant/accused shall surrender hers passport if any to this Court and otherwise appropriate affidavit declaring not having of passport be submitted.</i>

Necessary Yadi be written on furnishing bail bond as aforesaid.

Pronounced and signed in the open Court today on 13th day of March, 2026.

Date : 13.03.2026.

Place : Dwarka.

[Kaushikkumar Jashvantlal Modi]
 Add. Sessions Judge & Judge of Special
 Court under POCSO ACT
 Devbhoomi Dwarka @ Dwarka.
 UID : GJ00597

Self.