

GJJM010018742026  11202008250689 CRMA S/678/2026	 सत्यमेव जयते	<i>Filed on</i>	:	27/05/2026		
		<i>Registered on</i>	:	27/05/2026		
		<i>Decided on</i>	:	02/06/2026		
		<i>Duration</i>	:	<i>Years</i>	<i>Months</i>	<i>Days</i>
				00	00	06

BEFORE THE HON'BLE 3rd ADDL. SESSIONS JUDGE

AT JAMNAGAR
(DIST.-JAMNAGAR)

Criminal Misc. Application No.: 678/2026

Exh.- 7

<i>Applicant / Accused</i>	SHABIRHUSEN HARUN MAMAD BHAGAD Age : 39 Years, Occupation : Labour, Resi. At. : Khvajanagar, Tal. : Jam Khambhaliya, Dist.: Jamnagar. (At present in Judicial Custody)
<i>Versus</i>	
<i>Opponent</i>	STATE OF GUJARAT

Police Station	<i>City A Division Police Station, Jamnagar</i>
F.I.R. No. : CR	<i>11202008250689/2025</i>
Trial Court	<i>Hon'ble Magistrate Court</i>
Offence	<i>Section 308(7), 319(2), 204, 352 of B.N.S. (S. 388, 419, 170, 504 of I.P.C.).</i>

APPEARANCE :-

Ld. Legal Aid Counsel for Applicant / Accused	<i>Mr. K. K. Zala Mr. D. G. Vyas</i>
Ld. Public Prosecutor for the State	<i>Mr. J. K. Bhandari</i>

**REGULAR BAIL APPLICATION AFTER
FILING OF CHARGE-SHEET UNDER
SECTION 483 OF BHARTIYA NAGRIK
SURAKSHA SANHITA, 2023 (U / SEC. 439
OF CRIMINAL PROCEDURE CODE, 1973).**

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

- (1). The Applicant has preferred the present bail application after filing of charge-sheet under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (U/s. 439 of the Criminal Procedure Code, 1973), for releasing him on regular bail in pursuance to alleged offence mentioned above. The application was registered and notice was issued. On service of the process, the Ld. P.P. for the Opponent-State had appeared and objected the application.
- (2). I have heard the Ld. Advocate for Applicant / Accused and the Ld. P.P. for Opponent-State, at great length. I have considered the facts and circumstances of case and documents on record, grounds stated in regular bail application, affidavit of I.O. at Exh.-6.
- (3). The Ld. Advocate for Applicant has humbly submitted that he is falsely implicated. The Accused was arrested and sent to the Judicial Custody and is in jail since 29/10/2025. The applicant is not shown as accused in the whole FIR and no where his role has been assigned. Further, seeing the manner how the complaint made at delayed stage and without any base and complainant cannot say who was the persons who had cheated him. Therefore, it is requested to grant regular bail for the Applicant / Accused.
- (4). The Ld. Advocate for Accused has humbly submitted that the alleged triable by J.M.F.C. and looking the fact of

present case and age of Accused, it is requested to kindly grant regular bail. The Ld. Advocate for Accused has further humbly submitted that if bail is not granted, then it will amount to Pre-Trial Punishment.

- (5). The Ld. Advocate for Accused has further submitted that the Applicant gives assurance to abide and comply all conditions, which may be imposed by the Court, if he is permitted to enjoy his fundamental right of liberty. Therefore, the Ld. Advocate for Accused has respectfully prayed to release the Accused on regular bail by imposing suitable conditions.
- (6). As against the said argument of the Ld. Advocate for the Accused, the Ld. Public Prosecutor has vehemently argued that offence is non-bailable and serious and so it is not desirable to grant the bail. As against that arguments, the Ld. Advocate for the Accused has stated that Accused is resident of this Country and if that is so, the Court may put appropriate conditions so that Accused may be available during investigation and trial.
- (7). The Ld. Public Prosecutor has strongly opposed the bail application. The Ld. Public Prosecutor has submitted that from the record, a strong case is made out against present Applicant / Accused. It is further submitted that if Applicant is released on bail, there is possibility to flee and therefore, he has prayed to dismiss the present bail application.

- (8). If we go through the allegation made in charge-sheet at Mark-3/1, then the allegation is that the Accused had by wrong personification as writer of P.I., S.O.G., Jamnagar, threatened the complainant to falsely involve in NDPS case and under the said threat, he had extorted Rs. 1,57,000/- from the Complainant and thereby he has committed an offence as alleged above.
- (9). I has considered the ratio laid down in a decision in case of ¹**SIDDHARAM SATLINGAPPA MHETRE Vs. STATE OF MAHARASHTRA** and in case of ²**SANJAY CHANDRA Vs. CBI** of the Hon'ble Supreme Court of India and the ratio laid down in a decision in case of ³**RAKESH PRAHLADRAM JOSHI & ORS. Vs. STATE OF GUJARAT** of the Hon'ble Gujarat High Court.
- (10). Order granting or refusing bail is not necessarily required to be speaking order as held by the Hon'ble Supreme Court in case of ⁴**JIVAJI JEDEJA & Ors. Vs. STATE OF MAHARASHTRA & Ors.**
- (11). The Ld. A.P.P. for the State has relied on the decision delivered by the Hon'ble Supreme Court in case of ⁵**LOKESH SINGH Vs. STATE OF U.P.**, wherein, the Hon'ble Court had concluded about unreliability of incriminating material, which is not permissible at the stage of bail during trial and thus, allegation on its face value is to be considered. It is further held that nature of

1 **SIDDHARAM SATLINGAPPA MHETRE Vs. STATE OF MAHARASHTRA : 2011(1) G.L.H. 11**
2 **SANJAY CHANDRA Vs. CBI : 2012(1) GLH 93 (SC) = (2012) 1 SCC 40 = Cr.A. 2178/11, D/- 23/11/11**
3 **RAKESH PRAHLADRAM JOSHI & ORS. Vs. STATE OF GUJARAT**
: Cr.M.A. No. 4597-11, D/- 12/05/11
4 **JIVAJI JEDEJA & Ors. Vs. STATE OF MAHARASHTRA & Ors. : 1987 CrLJ 1850 : AIR 1987 SC 1491**
5 **LOKESH SINGH Vs. STATE OF U.P. : Cr.A. 1649/08 [arising from SLP(Cr.) 2861/07], D/- 21/10/08**

accusation, severity of punishment, nature of supporting evidence, reasonable apprehension of tampering with witness or threat to him, prima facie satisfaction of Court in support of charge etc. are some of the factors to be considered before granting bail.

(12). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Gujarat High Court (Coram : Hon'ble Mr. Justice Kshitij C.K.Buch, J) in case of **6KANTI SARDUL BHARVAD Vs. STATE OF GUJARAT**, wherein held that if trial is likely to take time, Accused may be released on bail for fixed period. In present case, charge-sheet is filed and Criminal Case is registered and on stage of Final Argument and Ld. P.P. submitted that they will not make any delay in Final Argument / proceeding of the matter. Thus, it is not acceptable that there is delay in trial of case in present case. Hence the said authority will not be helpful the the Accused in present case.

(13). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court (Coram : Hon'ble Mr. Justice Aftab Alam & Hon'ble Mr. Justice Anil R. Dave, JJ) in case of **7DIPAK SHUBHASH CHANDRA MEHTA Vs. C.B.I. & ANR.** and relied on the decision delivered by the Hon'ble Supreme Court (Coram : Hon'ble Mr. Justice R. K. Agrawal & Hon'ble Mr. Justice Abhay Manohar Sapre, JJ) in case of **8LT.**

6 **KANTI SARDUL BHARVAD Vs. STATE OF GUJARAT**
: 2004(7) G.H.J. (243) = Cr.M.A.3969/04, D/- 23/6/04

7 **DIPAK SHUBHASH CHANDRA MEHTA Vs. C.B.I. & ANR.**
: ACR 2012 (I) 204 SC = Cr.A.348/12, D/- 10/2/12

8 **LT. COL. PRASAD SHRIKANT PUROHIT Vs. STATE OF MAHARASHTRA**

COL. PRASAD SHRIKANT PUROHIT Vs. STATE OF MAHARASHTRA, wherein held that bail should be granted to all if delay in trial, but should not be applied to all cases mechanically and further held that detailed examination of evidence and elaborate documentation of the merits of the case need not be undertaken.

(14). The applicant is involved in the offence and therefore, prima-facie his direct involvement in the alleged crime is emerging out of the charge-sheet papers and therefore, the present bail application cannot be granted. The allegation against the present accused is that he had extorted the complainant of Rs. 1.57,000/- under threat of falsely involving in NDPS case, by wrong personification as writer of P.I., S.O.G., Jamnagar. Thus, the alleged offence committed by the accused is punishable with 10 years imprisonment. There is an active role of the applicant. The matter is on stage of Final Argument before the Hon'ble Trial Court and the Ld. P.P. has submitted that he will not make any delay in final argument. It is thus not proper to grant bail at this stage. Hence, this Court is not of the view to invoke the power vested under Section 483 of B.N.S.S. (Section 439 of Cr.P.C.).

(15). The regular bail application cannot be granted only on the ground that Accused is in jail since 1 year in the offence punishable for 10 years imprisonment and triable by the Magistrate and more particularly in such grave and

serious offence. Thus, the role of Accused is prima-facie active in offence. It deserves to be dismissed based on the facts of case. When alleged offence is punishable with 10 years imprisonment, then the factors - Accused's age, dependency of family, resident of this Country, availability at trial or Applicant is in jail about since one year will not be justifiable and reasonable grounds to invoke discretionary power vested with this Court. So, this Court do not feel just and proper to use discretionary power looking the alleged role of Accused in offence. In the humble opinion of this Court, if following order will be passed, then it will be in the interest of justice and society at large. Hence, I pass following order :

-:: ORDER ::-

- **The Regular Bail Application, under U/s. 483 of B.N.S.S. (Section 439 of Cr.P.C.) of Accused, after filing of charge-sheet, is dismissed.**
- **It is worthless to note that these observations and reasons are preliminary in nature only with a view to decide bail application and shall neither influence nor shall has binding effect to the**

**Hon'ble Trial Court or
investigating officer.**

➤ **Yadi of this Order, is ordered
to be sent to the concerned
Police Station and to the Ld.
Magistrate concerned.**

Signed, pronounced and declared in Open Court on this 2nd day of June, 2026, at Jamnagar.

Date : 02/06/2026

Place : Jamnagar

/// sf. ///

(Rasikkumar V. Mandani)

3rd Addl. Sessions Judge

Jamnagar. (Code : GJ00715)