

GJJM010019322026	 सत्यमेव जयते	<i>Filed on</i>	:	02/06/2026		
 11202013250313 CRMA S/713/2026		<i>Registered on</i>	:	02/06/2026		
		<i>Decided on</i>	:	11/06/2026		
		<i>Duration</i>	:	<i>Years</i>	<i>Months</i>	<i>Days</i>
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BEFORE THE HON'BLE 3rd ADDL. SESSIONS JUDGE
AT JAMNAGAR

Criminal Misc. Application No.: 713/2026

Exh.-8

<i>Applicant / Accused</i>	ILSADBHAI ISMAILBHAI SULEMANBHAI KHAFI Age : 23 Years, Occupation : Labour, R/o: Masitiya, Near Dargha, Tal.-Dist.-Jamangar. Permanent R/o.: Pirlakhasar Village, Tal.-Khambhaliya, Dist.- Dev Bhoomi Dwaraka. (At present the accused in Judicial Custody)
<i>Versus</i>	
<i>Opponent</i>	STATE OF GUJARAT

Police Station	<i>Sheth Vadala Police Station</i>
F.I.R. No. :	<i>11202013250313/2025</i>
Offence	<i>S. 303(2), 54 of BNS (S. 379, 114 IPC)</i>
Trial Court	<i>Learned Magistrate.</i>

APPEARANCE :-

Ld. Advocate for the Applicant / Accused	<i>Mr. A. H. Sama</i>
Ld. Public Prosecutor for the State	<i>Mr. J. K. Bhanderi</i>

REGULAR BAIL UNDER THE SEC.
483 OF B.N.S.S. (U/SEC. 439 Cr.P.C.)

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

(1). The Applicant has preferred the present bail application

under Section 483 of B.N.S.S. (under Section 439 of the Cr.P.C.), 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 and affidavit of I.O. at Exh.-7 and papers of investigation.
- (3). The Ld. Advocate for Applicant has humbly submitted that he is falsely implicated. It is requested to grant regular bail for the Applicant / Accused. The Ld. Advocate for Accused has further humbly submitted that the offence is triable by Magistrate and further, the accused was arrested on dtd.24/05/2026 and was then sent to judicial custody on about dated 25/05/2026 and since then, he is in jail and that if bail is not granted, then it will amount to Pre-Trial Punishment.
- (4). The Ld. Advocate for Accused has humbly submitted that the alleged offence is punishable upto 3 years of imprisonment and looking the fact of present case and age of Accused and dependency of his family, 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 give 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. It is further submitted that the Applicant / Accused is residing in local area. 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. As against that arguments, the Ld. Advocate for the Accused has stated that there is no name of the applicant-accused in the F.I.R., only on presumption, the complaint has been filed against the present applicant-Accused. That the Court may put appropriate conditions so that Accused may be available during Trial as investigation is already finished so there is no possibilities to elope anywhere.
- (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 threat the witnesses and yet charge sheet is not filed and therefore, he has prayed to dismiss the present bail application. The Ld. Advocate for the Accused has stated that Accused

will present in Court during trial.

- (8). If we go through the allegation made in F.I.R. at Mark-3/1, then the allegation is that the accused person has stolen earthing Copper Wire of about 52 Meters worth Rs.31,200/- from the transformers of the wind mills of Wind World India Company Ltd., from three different locations.
- (9). In a decision in case of ¹**JEHANGIR MARZBAN PATEL Vs. STATE OF GUJARAT** before the Hon'ble Gujarat High Court, the Accused was alleged for about 14 offences and even then bail was granted. It is stated by the Ld. Advocate for the Accused that Accused will be readily available at the time of trial and will not jump the bail and if Accused is not granted bail, it will be pre-trial punishment. I have considered the ratio laid down in a decision in case of ²**SIDDHARAM SATLINGAPPA MHETRE Vs. STATE OF MAHARASHTRA** and in case of ³**SANJAY CHANDRA Vs. CBI** of the Hon'ble Supreme Court of India and the ratio laid down in a decision in case of ⁴**RAKESH PRAHLADRAM JOSHI & ORS. Vs. STATE OF GUJARAT** of the Hon'ble Gujarat High Court.
- (10). The Learned Advocate for the applicant-accused has stated that there is no eye witnesses and nothing has been recovered from him and there is no criminal past history of present applicant-accused.

1 **JEHANGIR MARZBAN PATEL Vs. STATE OF GUJARAT : 2004 Cr.L.J. 1162**
2 **SIDDHARAM SATLINGAPPA MHETRE Vs. STATE OF MAHARASHTRA : 2011(1) G.L.H. 11**
3 **SANJAY CHANDRA Vs. CBI : 2012(1) GLH 93 (SC) = (2012) 1 SCC 40 = Cr.A. 2178/11, D/- 23/11/11**
4 **RAKESH PRAHLADRAM JOSHI & ORS. Vs. STATE OF GUJARAT**
: Cr.M.A. No. 4597-11, D/- 12/05/11

(11). The Applicant - Accused was arrested and relevant investigation with the aid of Accused was proceeded and he is of young age about 23 years and is in custody since 25/05/2026 and the name of the present applicant came on surface only by the statement of the co-accused – Umarbhai @ Abado Alibhai Osmanbhai Detha. The presence of present Applicant is neither required now for investigation nor the question arises for threatening any witness or tampering with evidence. There is no name of Applicant in F.I.R. The offence is punishable upto 3 years and triable by the Ld. Magistrate. There is no past Criminal History. No muddamal is recovered from the Applicant. These are the peculiar facts which has appealed this Court to invoke the power under Section 483 of B.N.S.S. (Section 439 of Code of Criminal Procedure) as it is not fit case to put the Accused behind bar for indefinite period for concluding of trial. Under such circumstances, the present Applicant is entitled to get regular bail.

(12). It seems that Applicant's family is dependent on him and is resident of this State as stated by the Ld. Advocate for the Accused and if bail is not granted, it seems that his family may have to see the days of hardship and may be compelled by situation to divert on illegal path. At the stage of bail, generally it is to be seen whether Accused will face the trial or not and he should not be denied bail if readily available at trial by taking proper surety or else it will amount to pre-trial punishment and the Ld. Advocate for the Accused prayed to apply **Rule of Bail and Not**

Jail in present case.

- (13). Order granting or refusing bail is not necessarily required to be speaking order as held by the Hon'ble Supreme Court in case of ⁵**JIVAJI JEDEJA & Ors. Vs. STATE OF MAHARASHTRA & Ors.** It is held by the Hon'ble Supreme Court in case of ⁶**STATE OF RAJASTHAN Vs. BALCHAND** that **bail is the rule and committal to jail an exception** and further observed that **refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution of India**. Considering the facts & circumstances of the case on hand, the regular bail application deserves to be allowed with appropriate terms and conditions. In the humble opinion of this Court, if following order will be passed, then it will be in the interest of justice. Hence, I pass following order to meet the end of justice :

-:: ORDER ::-

- **The Regular Bail Application under Section 483 of B.N.S.S. (U/s. 439 of Cr.P.C.) of Applicant / Accused is allowed and he shall be released immediately on bail, on furnishing surety of Rs.25,000/- (Rupees Twenty Five thousands only) and on executing personal bond of like amount by said Accused in connection with above al-**

5 **JIVAJI JEDEJA & Ors. Vs. STATE OF MAHARASHTRA & Ors. : 1987 CrLJ 1850 : AIR 1987 SC 1491**
6 **STATE OF RAJASTHAN Vs. BALCHAND : (1977) 4 SCC 308**

leged offence, subject to the following conditions:

- The Accused shall furnish his address and mobile number to I.O. and Hon'ble Trial Court, within 7 days of their release and he shall not change it without permission of the Hon'ble Trial Court.
- The Accused shall surrender his passport, if any, within 7 days of his release. If Accused is not holding any passport, then he shall file affidavit to that effect.
- The Accused shall not leave the Country without prior permission of Trial Court, till conclusion of trial.
- The Accused shall not directly or indirectly make any inducement, threat or promise to any witness or person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court. The Accused shall not directly or indirectly tamper with evidence.
- The Accused shall not indulge himself in any of the similar offence and the Accused shall maintain law and order.
- The Accused shall co-operate in conducting trial and shall remain present during trial on dates and whenever he is unable to attend the court due to unavoidable circumstances, he shall remain present through his advocate, without fail.
- The Hon'ble Trial Court is at liberty to take appropriate action against the Accused including taking into custody, if he commits such offence again or breach any of the above said condition and will also be at liberty to add,

delete or alter any condition of bail.

- 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 have binding effect to the Hon'ble Trial Court.
- Yadi of this Order be sent to concerned Police Station forthwith for information, compliance and record. Bail bond be furnished before Ld. Magistrate concerned.
 - Papers of investigation be returned back.

Signed, pronounced and declared in Open Court on this 11th day of June, 2026, at Jamnagar.

Date : 11/06/2026

Place : Jamnagar

///A.M.S ///

(Rasikkumar V. Mandani)

3rd Addl. Sessions Judge
Jamnagar. (Code : GJ00715)