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			0	0	4

**IN THE COURT OF 4th ADDITIONAL SESSIONS JUDGE,
VISAVADAR.**

Criminal Misc. Application No. 46/2026

Exh. :

Applicant: **Raj Balubhai Dobariya**
Age: 26 years, Occupation: Business,
Resident: 178,
Ayodhyapuram Society-1,
Valak Patiya, Surat.

Versus

Opponent: **The State of Gujarat**
Summons through,
District Government Pleader, Junagadh.
At. Visavadar.

**Sub. : Anticipatory Bail Application under section 482 of
B.N.S.S.**

(Visavadar Police Station Crime Registration No.
11203070260052/2026 under section 65(E),116(B),81 N S of the
Prohibition Act)

Appearances:-

Ld. Adv. Mr. A.R.Thakor for the Applicant.

Ld. A.G.P. Mr. V.N.Madhak for the Opponent.

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

1. This application is filed by the applicant under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"), seeking anticipatory bail as applicant is having apprehension that he will be arrested in connection with Crime Registration No. 11203070260052/2026, registered with Visavadar Police Station for the offences punishable under Sections 65(E),116(B),81 N S of the Prohibition Act. It is further stated that F.I.R. is registered against him and there is apprehension that the police will arrest him and torched him, hence he filed the present application

2. Applicant further submits that he has never committed any offence as alleged in the FIR and has not played any direct or indirect role in the alleged crime. It is further stated that the complaint does not mention the applicant's full name and that the main accused has wrongly disclosed his name before the police and no incriminating material or muddamal has been recovered from the applicant. It is further submitted that his name has surfaced only on the basis of the alleged confession of the main accused, which, under the provisions of the Indian Evidence Act, cannot be relied upon to implicate another person. The applicant also submits that he does not even know the main accused and has no connection with him, and that his name has been falsely implicated due to personal enmity. It is further stated that the main accused has already been released on bail by the Court in Cr.M.A. No. 36/2026, and therefore the applicant prays for

anticipatory bail. The applicant submits that he is a respectable person residing at Surat and engaged in business, and that his arrest would cause serious damage to his reputation and subject him to physical and mental harassment. He further states that he is a permanent resident with family responsibilities and possesses movable and immovable properties, and therefore there is no possibility of absconding. Hence, the applicant prays to grant the present anticipatory bail application.

3. The brief case of the prosecution, in a nut shell, is that the accused, with the help of other co-accused has caught with 197 bottles of indian made foreign liquor during the raid of police and has committed offence punishable under Section 65E, 116(2) and 81 of the Prohibition Act.

4. The notice was issued to the otherside. Ld.A.G.P. representing the State, has appeared before this Court, and filed the affidavit of Investigating Officer vide Exh.-9 to resist the application.

5. At the time of arguments, the learned advocate for the applicant/accused mostly argued as per application at Exh.1 and further submitted that muddamal was recovered from the main accused and not seized from the custody of the present applicant and applicant's name has been falsely implicated due to personal enmity. It is further argued that this is first bail application of the

applicant and main accused is already enlarged on bail, hence prayed to give him benefit of parity and grant the present application.

6. The learned A.G.P. strongly opposed the application and relied on the affidavit of the Investigating Officer at Exhibit-9. It is submitted that the present applicant is the person who had sent the muddamal, as stated by the co-accused. It is further argued that if the applicant is released on bail, there is a possibility that he may destroy the evidence and abscond. Hence prayed to reject the present application.

7. I have heard the Ld.Advocate for the applicant/accused at length as well as Ld.A.G.P. for the State. I have also gone through the affidavit of Investigating Officer vide Exh.-9.

8. Considering the submissions made by both sides and the facts on record, it is alleged that the present applicant/accused has sent foreign liquor to the main accused. In this offence, 197 bottles of foreign liquor worth Rs.57,075/- was recovered. However, at this stage the Court cannot adopt a punitive approach. The alleged offence occurred on 01-02-2026. In these circumstances, most of the investigation is believed to be completed, therefore this Court does not agree with the police

affidavit stating that granting bail would adversely affect the investigation. The submission of the Prosecution Officer that applicant accused will destroy the evidence is also not sufficient ground to reject the bail application. The alleged offence is triable by Magistrate Court. The accused has no prior criminal history. The accused is a local resident of Surat, and therefore, there is no reason to believe that he will abscond. Considering the age of the accused, the nature and quantity of the offence, the Court cannot take a punitive approach at this stage.

9. As the co-accused who was arrested with muddamal is already enlarged on bail. Except the reason of tempering with evidence, no other reasons were clarified by the investigating agency. There is no submission from the investigating agency that custodial interrogation is required. Therefore also accused is entitled for the anticipatory bail.

10. Further the purpose of Section 482 of the B.N.S. 2023 is to protect any person from arrest in false complaint. The court is duty bound to see that the fundamental right to personal liberty of the accused must not violated. **The Hon'ble Supreme Court, in the case of Siddharam Satlingappa Mhetre**, has held that the presumption of the accused's innocence must be balanced

with public interest and individual liberty. Arrest should be a last resort, and the court should use the discretionary power under Section 438 of the CrPC to prevent unnecessary arrests. Moreover, arresting a person can lead to damage to their reputation. Referring to judgments like **Sanjay Chandra v. CBI (2012) ISC, page 40** and **Siddharam Satlingappa Mhetre v. State of Maharashtra & Others (2011 (2) GLR 1615)**, the Supreme Court emphasized that the law intends to protect the accused from complaints filed to harm their reputation or socially defame them. Therefore, this court is of the opinion to use its powers in favour of the applicants/accused to prevent such harm.

11. Thus, considering the law laid down in the **Siddharam Satlingappa Mahetre Vs. State of Maharashtra and others**, reported in 2011 CRILJ 3905, **Bhadresh Bipinbhai Sheth Vs. State of Gujarat and other**, reported in 2015 GLH 165 and in the case of **Asha Dubey Vs. The state of Madhya Pradesh** by Hon'ble Apex Court in Criminal Appeal No. 4564 of 2024 and considering the role attributed by the applicants/accused and in view of the above aspects,

12. In view of the above facts and circumstances of the case, I am inclined to exercise my judicial discretion under Section 482

of the BNSS in favour of the applicant, subject to the imposition of suitable conditions to ensure his presence during the course of the trial.

-: O R D E R :-

- 1) The application, preferred by the applicant-accused, **Raj Balubhai Dobariya**, for anticipatory bail under Section 482 of B.N.S.S. in connection with the offence registered with Visavadar Police Station Cr.Reg.No. 11203070260052/2026 is hereby **allowed**. In the event of arrest of any the applicant, he should be released on conditions as stated henceforth.

- 2) The Investigating Officer of **Visavadar Police Station** is hereby directed to release the applicant in the event of his arrest in connection with Cr.No.11203070260052/ 2026, registered with Visavadar Police Station on furnishing surety of **Rs.15,000/- (Rupees Fifteen Thousand Only)** **by applicant/accused** and personal bond of like amount, subject to the following terms and conditions:
 - A) The applicant shall cooperate with the investigation and make himself available for interrogation whenever required;

 - B) The applicant shall not leave the territorial limits of India without the prior permission of the Court;

 - C) The applicant shall furnish his residential address with authenticated proof before Ld. Trial Court and

I.O. and shall not change his address without prior permission of this Court;

- D) The applicant shall not take undue advantage of the liberty or abuse his liberty;
- E) The applicant shall not try to tamper or pressurize the prosecution witnesses or complainant in any manner;
- F) If the applicant holds a passport, he shall surrender it before the learned Trial Court within one week of being released on bail. If they do not hold a passport, they shall file an affidavit to that effect before the learned Trial Court.

3. Yadi of this order be made accordingly.

Signed and pronounced in the open Court, today on this **06th day of March, 2026.**

Date : 06/03/2026.
Place: Visavadar.

(Hetalkumar Vinodray Joshi)
4th Additional District &
Sessions Judge,
Visavadar.
[Code No:GJ00599]