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			0	0	4

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

Criminal Misc. Application No. 50/2026

Exh. :

Applicant: **Nikunjhai Jamanbhai Dobariya**
Age: 31 years, Occupation: Private Service,
Resident: 5-Sat Building Main Road, Bhesan.
Original resident of Gorakhpara Plot Vistar,
Chanaka, Tal. Bhesan, District Junagadh.
At present : District Prison, Junagadh.

Versus

Opponent: **The State of Gujarat**
Notice through,
Visavadar.

Sub. : Regular Bail Application under section 483 of B.N.S.S.

(Bhesan Police Station Crime Registration No.
11203007250521/2025 under sections 317(2), 317(4) of B.N.S.
and Section 66(D) of I.T.Act.)

Appearances:-

Ld. Adv. Mr. K.B.Joshi 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 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"), seeking his release on regular bail, as he was arrested on 17/12/2025 for the offence punishable under under sections 317(2), 317(4) of B.N.S. and Section 66(D) of I.T.Act registered with Bhesan Police Station Crime Registration No. 11203007250521/2025 and has since been in judicial custody for the said offence. It is further stated that earlier the applicant had preferred an application for bail before the filing of the charge sheet, which was rejected. At present, the investigation is over and the charge sheet has been filed; therefore, there is no possibility of tampering with the evidence. The accused has been in jail for a long time. It is also submitted that the present complaint has been lodged with delay and the allegations made in the complaint are not believable. The complaint has been filed with the intention to harass the applicant falsely and to damage his reputation due to political rivalry and caste-based animosity. It is further stated that the applicant is a permanent resident of a

village in Bhesan Taluka and is doing private service, has good reputation in society, the applicant is young and has family responsibilities, he owns movable and immovable properties in Bhesan village and there is no possibility of him absconding, the applicant has no criminal antecedents. It is submitted that the applicant has not played any direct or indirect role in the alleged offence. It is lastly submitted that the applicant is ready and willing to abide by any conditions that may be imposed by this Hon'ble Court. Hence, it is prayed that the present application be allowed.

2. The brief case of the prosecution, in a nut shell, is that the accused, with dishonest intention to earn money by way of commission, had given his bank account on rent so as to receive commission on each transaction. The accused allowed money to be deposited in his account and it is alleged that the said amount was obtained through fraud. Despite knowing that the amount deposited in the account was fraudulently obtained, the accused permitted the deposit of such money and derived financial benefit in the form of commission. Thereafter, the accused used and disposed of the said amount for his personal benefit.

3. 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.-6 to resist the application.

4. At the time of arguments, the learned advocate for the applicant/accused submitted that earlier bail application was rejected on the ground that investigation is still going on, but at present the chargesheet of the offence is already filed and applicant is in jail since long time, maternal uncle's son has misused the account of the applicant who is yet to be arrested. The Ld. Advocate applicant therefore prays that the present application be allowed.

5. The learned A.G.P. opposed the application and relied on the affidavit of the Investigating Officer at Exhibit-6. It is argued that the bank account belongs to the applicant-accused and any transaction from the account can be carried out only through OTP; therefore, such a large transaction could not have been done without his knowledge. It is further submitted that if the applicant is released on bail, he may abscond, the other accused who are yet to be arrested may not be traced, and the applicant may tamper with the evidence and influence the witnesses. Considering these aspects, the learned A.G.P. respectfully prayed

for rejection of the bail application.

6. 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.-6.

7. This Court is mindful of the fact that while adjudicating an application for bail, the **“triple test”** shall be the guiding principle, which includes: (i) the possibility of the accused absconding from justice if released on bail, i.e., the flight risk; (ii) the possibility of tampering with evidence; and (iii) the possibility of influencing witnesses in favour of the accused. The applicant appears to be a permanent resident of Bhesan, District Junagadh. Therefore, the possibility of his absconding, if released on bail, appears to be unlikely. Further, the investigation is over and the charge sheet has already been filed. The statements of material prosecution witnesses have already been recorded by the police and therefore the possibility of influencing the witnesses also appears to be minimal. So far as the gravity of the offences alleged against the applicant is concerned, the same is one of the several factors to be considered by the Court while deciding the bail application, and it cannot be the sole ground for rejecting the application.

8. In view of the observations made hereinabove, this Court is of the considered opinion that no fruitful purpose would be served by keeping the applicant in judicial custody. On the contrary, further detention of the applicant would amount to giving him a taste of pre-trial punishment. Considering all the above facts and circumstances, and keeping in mind the well-established principle that “bail is the rule and jail is the exception,” as laid down by the **Hon’ble Supreme Court in Sanjay Chandra v. CBI, (2012) 1 SCC 40**, this Court finds that the applicant deserves to be released on bail. The applicant is a permanent resident of Bhesan and his presence can be secured by imposing appropriate conditions.

9. In view of the above facts and circumstances, this Court is of the opinion that the discretion under Section 483 of the BNSS can be exercised in favour of the applicant by imposing suitable conditions to secure his presence during the trial.

:- ORDER :-

1. The application, preferred by the applicant-accused, **Nikunjbhai Jamanbhai Dobariya**, for regular bail under Section 483 of B.N.S.S. in connection with the offence registered with Bhesan Police Station Cr.Reg.No. 11203007250521/2025 is hereby **allowed**.

2. The above applicant-accused is hereby ordered to be enlarged on bail upon furnishing surety of **Rs.25,000/- (Rupees Twenty Five Thousand only)** and personal bond of like amount of satisfaction of this Court with the following terms and conditions :-

1. The applicant shall not leave the territorial limits of India without the prior permission of the Court;
2. If the accused holds a passport, he shall surrender it before the learned Trial Court within 3 days of being released on bail. If he does not hold a passport, he shall file an affidavit to that effect before the learned Trial Court.
3. The applicant shall furnish his residential address with authenticated proof before Ld. Trial Court and I.O. and shall not change their address without prior permission of this Court;
4. The applicant and his surety shall provide their telephone/mobile numbers and shall inform the Court within seven days if there is any change.
5. The applicant shall not take undue advantage of the liberty or abuse his liberty;
6. The applicant shall not try to tamper or pressurize the prosecution witnesses or complainant in any manner;
7. If breach of any of the above conditions is committed, Trial Court shall be at liberty to take appropriate action against the applicant.
8. The bail bond shall be furnished before the Ld. Trial

Court.

Signed and pronounced in the open Court, today on this
07th day of March, 2026.

Date : 07/03/2026.
Place: Visavadar.

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