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IN THE COURT OF 2nd ADDITIONAL SESSIONS JUDGE,
 AT KESHOD, DIST. JUNAGADH.

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Ex.-06

Criminal Misc. Application No. 219 of 2026

Applicant/ accused person:- **Hardasbhai Pithabhai Nandaniya,**
 Aged Abt:59, Occupation: Agriculture,
 R/o. Bamnasa village, Balagam Road,
 Zalavadi sim, area,
 Tal. Keshod, Dist. Junagadh.
(At present : In Judicial custody)

V E R S U S

Opponent:- THE STATE OF GUJARAT.

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Application U/s. 483 of B.N.S.S. 2023 for Regular Bail.

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APPEARANCE:

Ld. Advocate for the Applicant. : Mr. V.L.Devani.

Ld. A.P.P. for the opponent State. : Mr. A.M.Parekh.

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

1. The present application is preferred by the applicant/accused person under section 483 of the B.N.S.S. 2023 for releasing him on regular bail in connection with Keshod Police Station vide Cri. Reg.

No.11203030240446/2024 for the commission of offences punishable u/S. 302,384,347,364,387,392,427,506(2),323 and 114 of I.P.C and u/S. 40 and 42 of the Gujarat Money-Lenders Act, 2011 and u/s. 135 of G.P. Act.

2. I have heard written arguments of the Learned Advocate for the applicant vide Exh.-06 and Ld. P.P. for the opponent i.e. the State.
3. The Ld. Advocate for the applicant has submitted that, the applicant has not committed the alleged offence and he has been falsely implicated in this matter. He has further submitted that applicant/accused is not connected with the alleged offence. That bail is a rule and jail is an exception. The applicant has been falsely arrayed in this matter. There is no chance of tampering with the evidence as the Charge-sheet has been filed vide Session Case No. 26/2024 dated 19/09/2024. He has further submitted that applicant is permanent resident as shown in the cause title and he is having movable and immovable property and never flee away from the justice. It is submitted that the applicant has been in continuous judicial custody in Junagadh Jail since **25/06/2024**, marking a prolonged incarceration of nearly two years. The investigation is completed and the charge-sheet has already been submitted vide **Sessions Case No. 26/2024** before this Court. Out of a total of **92 listed witnesses**, the prosecution has examined only **1 (one) witness** so far, which clearly indicates that the trial is

taking long time to conclude. In light of such gross delay, further pre-trial detention of the applicant—who is innocent and falsely implicated due to an incorrectly recorded name in the FIR would violate his fundamental right to a speedy trial and amount to pre-judgment punishment without trial. Furthermore, a co-accused in the very same offense, *Dhaniben alias Janiben Hardasbhai Nandania*, has already been enlarged on regular bail by the Hon'ble Gujarat High Court vide **Criminal Miscellaneous Application No. 23596/2024** on 04/12/2024; therefore, the present applicant is legally entitled to be released on bail on the grounds of parity. The investigating agency has failed to effect any recovery or discovery of any objectionable or incriminating material from the conscious possession of the applicant. Since the charge-sheet is already filed and the complainant belongs to a different village, there is absolutely no reasonable apprehension of the applicant fleeing from justice, absconding, or attempting to lure, threaten, or intimidate the prosecution witnesses. That applicant is an elderly person of **59 years of age**, has **no prior criminal history**, and is the sole breadwinner of his family who earns his livelihood purely through farming. The applicant's case is squarely covered by the landmark ruling of the Hon'ble Supreme Court in *Sanjay Chandra v. Central Bureau of Investigation*, (2012) 1 SCC 40, which mandates that '**Bail is a rule, and Jail is an exception**'; hence, the applicant may kindly be released on regular bail by imposing suitable conditions to

meet the ends of justice. The applicant's first bail application (**Cr.M.A. No. 494/2024**) was rejected by the ADJ, Keshod, and the subsequent **Cr.M.A. No. 368/2025** was withdrawn from the Hon'ble High Court on **08/01/2025**. The second bail application No. **Cr.M.A. No. 440/2025** before the this Court was also rejected on **02/12/2025**, and the following bail application No. **Cr.M.A. No. 26409/2025** before Hon'ble High court was withdrawn on **16/01/2026**; at that time Sp. Prosecutor made Statement before Hon'ble High Court that the prosecution is going to examine all material witnesses by 30.04.2026 subject to cooperation on the part of the accused. Hence, this is the third regular bail application preferred before this Court. Further stated that the applicant has been falsely implicated in the offence and urge to grant the bail on the stated grounds. It is further submitted by him that the applicant will be abide by any conditions that may be imposed upon him while exercising the discretion in favour of the applicant and he has urged to allow the bail application of the applicant.

4. Investigation officer has filed an affidavit vide Exh.-04 and he has stated that, the applicant has committed serious offence punishable under sections 302,384,347,364,387,392,427,506(2),323 and 114 of I.P.C and u/S. 40 and 42 of the Gujarat Money-Lenders Act, 2011 and u/s. 135 of G.P. Act. The I.O. has submitted that

applicant may involve in similar offences, if released on bail. Therefore, application for regular bail be rejected.

Investigating Officer has opposed this application and has submitted that, there are convincible evidence and facts/circumstances against the applicant, which shows applicant's involvement in the heinous crime and in case, the applicant is enlarged on bail, there is all possibility of hampering and tempering with the witness and evidence, further argued that no parity ground with female can be applicable. He has further submitted that there is apprehension that the applicant may involve in similar cases in future and he urged to reject the bail application of the applicant.

5. Present Bail application has been filed by the accused of Sessions Case No. 26/2024. In the said Sessions case Special Prosecutor has been appointed and later on he has declared that he is retiring from the said matter. However, as in the main matter Special Public Prosecutor has been appointed by the State, the other Public prosecutor appearing in this Court have not appeared to contest this application. Hence this Court had no opportunity to hear the Public prosecutor while deciding this bail application.
6. Considered the bail application, arguments of Id. Advocate for the parties and also considered the following points:

(a) The applicant is charged for the offence punishable under Section 302,384,347,364,387,392,427,506(2),323 and 114 of I.P.C and u/S. 40 and 42 of the Gujarat Money-Lenders Act, 2011 and u/s. 135 of G.P. Act.

(b) Maximum punishment prescribed for the alleged offence is upto life imprisonment/Capital punishment.

(c) Earlier regular bail applications (1) Cr.M.A. No. 494/2024 rejected by the then Additional Sessions Court, Keshod and (2) R/Criminal Misc. Application No. 368/2025 and 26409/2025 before Hon'ble High Court of Gujarat, which was withdrawn by applicant. (3) Cr.M.A. No. 440/2025 rejected by the this Court and this is third regular bail application.

(d) Iron pipe, spade with handle and sickle had been recovered.

(e) Co-accused Dhaniben alias Janiben Hardashbhai Nandaniya was enlarged on bail vide R/Criminal Misc. Application No. 23596 of 2024 before Hon'ble High Court of Gujarat.

(f) Applicant/accused has filed an argument vide Exh.-06, wherein relied upon the reportable Criminal Appeal No. 98/2021 before Hon'ble Supreme Court.

(g) Earlier the bail application of this applicant was rejected by the Additional Sessions court, Keshod. However, it is submitted that any delay in recording evidence is primarily attributable to the non-appearance of the learned Special Public Prosecutor (Sp. PP), for which necessary communications have already been made by this court to concerned authority to ensure the matter proceeds further without delay. Given that the offense in question is of an exceptionally serious nature and there has been no material change in the circumstances since the rejection of the earlier bail applications.

The Ld. Advocate for the applicant/accused has cited Principles laid down in case of *Ramashankar Shah V/s. The State of M.P.* neutral citation No. 2026 : MPHC-JBP: 15255. In paragraph No. 15 of the said Judgment it is clearly laid down that in that matter the accused had withdrawn his bail application with liberty that if the bail application is filed before Magistrate Court under section 480(6) of BNSS 2023 then it has to be considered on merits. However, in the present matter the applicant has not obtained such liberty while withdrawing his bail application No. Cr.M.A. No.26409 of 2025. Under the circumstances when the applicant has not obtained liberty to file before this Court, the principles laid down in the above Judgment can not be applied to the present bail application.

Thus, it is clear that this is the brutal murder. On perusal of citation and facts and circumstances no such factor have been changed to enlarged the applicant on bail. Though the co-accused has been enlarged on bail is female, so parity ground would not be available to the accused in the present case.

Considering the nature of offences and the facts that applicant/accused has actively participated in the offence and looking to the prima facie involvement of the applicant/accused as well as the seriousness of the offence punishable u/S. 302,384,347,364,387,392,427,506(2),323 and 114 of I.P.C and u/S. 40 and 42 of the Gujarat Money-Lenders Act, 2011 and u/s. 135 of G.P. Act. and considering settled legal principles, I am not inclined to exercise my judicial discretion in favour of the applicant/accused. Hence, I pass following final order :

::: O R D E R :::

This Criminal Misc. (Reg. Bail) Application No.219 of 2026 stands **Rejected**.

Necessary Yadi be sent as per this order.

Pronounced in open Court today, this 22nd day of June, 2026.

Date : 22/06/2026.

Place : Keshod.

#PK

[Sanjay Dhruvakumar Pandey]

2nd Additional Sessions Judge,

At Keshod, Dist. Junagadh,

[UIC No. GJ-00579]