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Decided On	09	03	2026
	YY	MM	DD

**IN THE COURT OF 5TH ADDITIONAL
DISTRICT & SESSIONS JUDGE,
KHEDA AT NADIAD.**

**Criminal Misc. Application No.247 of 2026
Exh. ____**

APPLICANT:

Jagdishbhai Shantibhai Senva

Age : 42 years, Occu.: Tailor,

Residing at : Lala Na Muvada,

Tal. Galteshwar, Dist. Kheda.

(At present : Bilodara Jail)

VERSUS

OPPONENT:

The State of Gujarat

**SUBJECT : BAIL APPLICATION UNDER
SECTION-483 OF THE BHARATIYA
NAGARIK SURAKSHA SANHITA,
2023 (SECTION 439 OF Cr. P.C).**

Appearance :-

Ld. Adv. Ms. K. R. Barot for the Applicant.

Ld. Addl. P.P. Mr. S. R. Bhatt for the Opponent-State.

~: O R D E R :~

1. The applicant has preferred the present bail application under Section-483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred as "B.N.S.S." for short) (Section 439 of Code of Criminal Procedure) to release him on bail in connection with First Information Report lodged with Sevaliya Police Station bearing C.R. No.11204067260011/2026 for the offences punishable under Sections 309(4), 331(4) and 54 of The Bharatiya Nyaya Sanhita 2023.

The applicant has been arrested on 23/02/2026 and sent him in judicial custody and since then the applicant is in judicial custody.

2. Notice was issued to the Public Prosecutor and Investigating Officer. Ld. Addl. P.P. Mr. S. R. Bhatt appeared for the opponent-State and Investigating Officer has filed affidavit at Exh.8.
3. It is the case of the prosecution that on 10/01/2026 at about 11:00 P.M. in the night, four unknown persons trespassed in the house of the complainant and committed robbery of one gold ring and Cash amount from the house of the complainant and thereby, committed alleged offences and accordingly, the complaint has been lodged under Sections-309(4), 331(4) and 54 of The B.N.S. 2023 in Sevaliya Police Station.
4. Heard Ld. Adv. Ms. K. R. Barot for the applicant and Ld. Addl. P.P. Mr. S. R. Bhatt for the opponent-State. Perused the affidavit filed by the Investigating Officer and the police

papers.

4.1 Ld. Adv. Ms. K. R. Barot for the applicant has argued that the present applicant is innocent, he has not committed any offence. The present applicant has been falsely implicated in the offence. The present applicant is doing work of tailoring and the accused No.1 and 2 came to his shop to stitch clothes and only the mobile number of the present applicant was found from the accused No.1 and 2. There is no role of the present applicant in the present crime and nothing has been recovered or discovered from the present applicant. Further, it would submit that prescribed punishment is extended to 10 years. The applicant is in judicial custody since last 14 days. The applicant is permanent resident of Tal. Galteshwar, Dist. Kheda, having no any antecedents. He is easily available for trial. The offences are exclusively triable by Court of Magistrate. Further, it would submit that trial will take long time and if, the applicant is not released on bail, then it would be called pre-trial punishment, therefore, present applicant may be released on bail on any conditions which court may deems fit.

4.2 Ld. Addl. P.P. Mr. S. R. Bhatt for the opponent-State has categorically argued that has categorically argued that the serious offence under Sections 309(4), 331(4) and 54 of The B.N.S. 2023 has been

registered against the present applicant. Further, it would submit that the present applicant is a tailor and provided information to other accused and thereby, abetted the offence. The investigation is in progress and the other accused are yet to be arrested, therefore, bail application may be rejected.

5. Hon'ble Apex Court in the case of ***State of Rajasthan V/s. Balchand (1977) 4 SCC 308*** has held that "*2.The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative.*"
6. The ***Hon'ble Supreme Court in the case of Sanjay Chandra Vs. CBI reported in AIR 2012 SC 830***, wherein, at para 14 and 16, held that:

"14) *In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon.*

The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty."

"16) *This Court, time and again, has stated that bail is the rule and committal to jail an exception.*

It is also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution."

7. It is well settled principle that while deciding the bail application, the Court has to consider *prima facie* case, nature and gravity of offence, prescribed punishment for the offence, danger of accused absconding or flee from the trial, antecedents of the accused and societal interest. While deciding the bail application, Court should not scrutinize evidence before it. The Hon'ble Apex Court in catena of decisions has held that the Court must bear in mind while deciding the bail application, the merits and demerits of the case should not be discussed in detail but some important factors are required to be considered and that is *prima facie* case, nature and gravity of offence, prescribed punishment for the offence, danger of accused absconding or flee from the trial, antecedent of the accused and societal interest.
8. Thus, considering the aforesaid parameters and accusations levelled against the present applicant, it appears that, the offences under Sections-309(4), 331(4) and 54 of The B.N.S. 2023 has been registered against the present applicant in Sevaliya Police Station. Looking to the FIR as well as police papers, there is nothing about the role played by the present applicant. The FIR has been lodged against unknown persons. Nothing has been recovered or discovered from the present applicant. Looking to the seriousness and gravity of the offence, it appears that, the offences are exclusively triable by Court of Magistrate and prescribed punishment is extended to 10 years. The applicant is in judicial custody for the last 14 days. Trial will take long time and if, the applicant will not be released

on bail, then it will be called pre-trial punishment. Moreover, the present applicant is permanent resident of Tal. Galteshwar, Dist. Kheda and hence, he is easily available for trial. Looking to the affidavit filed by the Investigating Officer, there is no any past antecedents against the present applicant. While deciding the bail application, the Court has to see that the presence of the accused can be secured during the trial and there is no likelihood of tampering or hampering of evidence and no likelihood of flee from justice. Herein this case, the applicant is in judicial custody since last more than 14 days and the alleged offences are exclusively triable by Court of Magistrate and trial will take long time and the Hon'ble Supreme Court in various decisions held that bail is rule and jail is exception. No purpose would be served by keeping the applicant behind the bar.

9. Thus, in these facts and circumstances and considering the ratio laid down in catena of decisions by the Hon'ble Apex Court as well as *Sanjay Chandra (supra)*, this is a fit case to exercise discretion under Section-483 of The B.N.S.S. 2023 to enlarge the applicant on bail certain conditions and hence, the following order.

:: ORDER ::

1. The present bail application stands **allowed**.
2. The applicant - **Jagdishbhai Shantibhai Senva** is hereby released on bail in connection with the FIR lodged with Sevaliya Police Station bearing C.R. No.11204067260011/2026 for the offences punishable

under Sections-309(4), 331(4) and 54 of The Bharatiya Nyaya Sanhita 2023 on furnishing bail bond of Rs.15,000/- (Rupees Fifteen Thousand Only) and with one surety of like amount on the following conditions :-

Conditions

- (1). The applicant shall not tamper or hamper the evidence of prosecution.
- (2). The applicant shall not threat or induce the witness of prosecution.
- (3). The applicant shall regular remain present on each and every date without fail.
- (4). The applicant shall furnish his residential address to the investigating officer and also to the Court at the time of execution of bond.
- (5). The applicant shall not leave the local limits of State of Gujarat without prior permission of the Ld. Trial Court.

**Signed and pronounced in the open Court, today on
this 09th Day of March, 2026.**

Date :- 09/03/2026
Nadiad.

Moin Kureshi

(Mahamadsiraj L. Shaikh)
5th Addl. Sessions Judge
Kheda at Nadiad
Code No.GJ00743.