

Filed On	07	03	2026
Registered On	07	03	2026
<b>Decided On</b>	<b>12</b>	<b>03</b>	<b>2026</b>
	<b>DD</b>	<b>MM</b>	<b>YY</b>

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**IN THE COURT OF 5<sup>TH</sup> ADDITIONAL  
DISTRICT & SESSIONS JUDGE,  
KHEDA AT NADIAD.**  
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**Criminal Misc. Application No.278 of 2026  
Exh. \_\_\_\_**

**APPLICANT :-**

**Vivekkumar Manishbhai Patel**

Age : Adult, Occu. :- Service,

Residing at : Behind Pariyage School,

Village - Pariyage,

Tal. Matar, Dist. Kheda.

(At present : Bilodara Jail)

**V E R S U S**

**OPPONENT :-**

**The State of Gujarat**

**SUBJECT : BAIL APPLICATION UNDER SECTION-483  
OF THE B.N.S.S. 2023 (SECTION-439 OF  
THE CODE OF CRIMINAL PROCEDURE,  
1973).**

**Appearance :-**

Ld. Adv. Mr. V. R. Amin for the Applicant.

Ld. P. P. Mr. D. R. Barot for the Opponent-State.

**~: O R D E R :~**

**1.** The applicant has preferred the present bail application under

Section 483 of The B.N.S.S. 2023 (Section-439 of the Code of Criminal Procedure, 1973) (hereinafter referred as “Sanhita” for short) to release him on bail in connection with First Information Report lodged with Kheda Town Police Station bearing C.R. No.11204025260126/2026 for the offences punishable under Sections-118(1), 118(2), 352 and 351(2) of The B.N.S. 2023 and Section 135 of The G. P. Act.

The applicant has been arrested on 04/01/2026 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. P. P. Mr. D. R. Barot appeared for the opponent-State and Investigating Officer has filed affidavit at Exh.4.
3. It is alleged that the complainant and the present applicant (accused) are working in same company and both having love affair. On dated 04/03/2026 the applicant came to the complainant and told that why you are keeping not relationship with me and not responding my call and got anger and inflicted with cutter at the throat of the complainant and also threatened to the complainant to kill her. Thus, the injured sustained grievous injuries and brought to Hospital and hence, the complaint has been lodged in Kheda Town Police Station for the alleged offences.
4. Heard Ld. Adv. Mr. V. R. Amin for the applicant and Ld. P. P. Mr. D. R. Barot for the opponent-State. Perused the affidavit filed by the Investigating Officer.
  - 4.1 Ld. Adv. Mr. V. R. Amin for the applicant has argued that the present applicant and the complainant having

love affair. The applicant has not committed any offence. In fact, the complainant had threatened to the applicant to keep relations with her. The injured has been discharged and she is out of danger. Further, it would submit that there is no any past antecedents of the present applicant. The applicant is in judicial custody more than 8 days. The applicant is permanent resident of Tal. Matar, Dist. Kheda. He will be easily available for trial. There is no likelihood of absconding. The offences are exclusively triable by Court of Magistrate. Further, it would submit that trial will take long time and if the applicant will not be not released on bail, then it would be called pre-trial conviction, therefore, the applicant may be released on bail on any conditions which Court may deems fit.

4.2 Learned P. P. Mr. D. R. Barot for the opponent-State has categorically argued that the serious offence under section 118(2) of The B.N.S. 2023 has been registered against the present applicant. The injured sustained grievous injuries on her throat. Therefore, bail application may be rejected.

5. It is held by the Hon'ble Apex Court in the case of ***Siddharam Satlingappa Mhetre V/s. State of Maharashtra*** that "*The society has vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. Thus, while dealing with*

*the bail application, the Court has to consider the personal liberty and the societal interest".*

6. 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.*"
7. 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."*

8. 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.

9. Thus, considering the aforesaid parameters and accusations levelled against the present applicant, it appears that the offences under Sections- 118(1), 118(2), 352 and 351(2) of The B.N.S. 2023 and Section 135 of The G. P. Act has been registered against the present applicant. It appears from the police papers and affidavit that, the injured has been discharged and she is out of danger. Looking to the seriousness and gravity of the offences, it appears that all the offences are exclusively triable by Court of Magistrate. Trial will take long time, and if applicant will not be released on bail, then it will be called pre-trial conviction. Moreover, the present applicant is permanent resident of Tal. Matar, Dist. Kheda and hence, he is easily available for trial. Looking to the affidavit filed by the Investigating Officer, it appears that there is no any past antecedents of the present applicant. The applicant is in judicial custody more than 8 days.
10. 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 certain conditions and hence, the following order.

**:: ORDER ::**

1. The present bail application stands **allowed**.
2. The applicant – **Vivekkumar Manishbhai Patel** is hereby released on bail in connection with the FIR lodged with Kheda Town Police Station bearing C.R. No.11204025260126/2026 for the offences punishable under Sections-118(1), 118(2), 352 and 351(2) of The B.N.S. 2023 and Section 135 of The G. P. Act 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 furnish his residential address to the investigating officer and also to the Court at the time of execution of bond.

**Signed and pronounced in the open Court, today on this 12<sup>th</sup> Day of March, 2026.**

Date :- 12/03/2026  
Nadiad.

*Moin Kureshi*

**(Mahamadsiraj L. Shaikh)**  
5<sup>th</sup> Addl. Sessions Judge  
Kheda at Nadiad  
**Code No.GJ00743.**