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 Decided on : 09-06-2026
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BEFORE THE COURT OF
HON'BLE 2nd ADDITIONAL SESSIONS JUDGE,
KHEDA AT, NADIAD.

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**Criminal Miscellaneous Application No.614/2026.**  
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APPLICANT:~

1. Vijaybhai Ramanbhai Chauhan
 Age : 19, Occupation : Agriculture Labour,
 Residence : Narsanda, Dhedi Talavdi,
 Ta. Nadiad, District : Kheda.
 (At present in judicial custody)

Versus

OPPONENT:~

1. The State of Gujarat.

For the applicant.	Ld. Advocate Mr. J. S. Malek
For the State.	Ld. P.P. Mr. D.R. Barot

Bail Application u/S. 483 of of Bharatiya Nagarik
Suraksha Sanhita, 2023

JUDGMENT

Relief Claimed For:-

1. The present application is filed by the applicant/ accused u/S. 483 of of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking regular bail, who is in judicial custody, in connection with the C.R. No.11204068260008/2026, registered with Vadtal Police Station, for the offences punishable under Sections-137(2), 87, 64(2)(m), 65(1) of Bharatiya Nagarik Suraksha Sanita and Sections-5(L) 6 & 12 of the Protection of Children from Sexual Offences Act, on the grounds mentioned in the present bail application.

Arguments of Ld. Advocate for Accused:-

2. The Ld. Advocate Mr. J.S. Malek for the applicant submits that, the applicant is innocent and he has been falsely implicated in the offence. That as per the F.I.R., the incident was occurred on 05.01.2026 and F.I.R was lodged on 07.01.2026 and it has been alleged that, the accused has eloped the victim and taken away from the legal guardianship and further committed sexual assault with her, by inducing her for marriage but considering the statement of the victim and other police papers, it appears that the victim is aged 16 years, 07 months & 21 days. Charge Sheet has been filed and the investigation is over and there is no need of present applicant in judicial custody. The victim had willingly gone with the applicant.

It is further submitted by the Ld. Advocate for the applicant that the applicant/accused is 19 years old, and if he would not be released on bail, his future would be in the dark, and his whole family has to face social stigma. The applicant-accused is permanent resident of the address shown in the cause-title, and he will not flee away during the trial, the applicant will be available during the trial and he will co-operate during the investigation, the applicant will abide by any stringent conditions imposed by this Court, and it is accordingly urged to enlarge the applicant/accused on regular bail.

3. Notice is issued to the State, and the Ld. P.P. Mr. D.R. Barot has appeared on behalf of the State and filed the affidavit on behalf of the Investigating Officer vide Ex.06.

Arguments for Ld. P.P. for state:-

4. The Ld. Public Prosecutor opposed the bail application and submitted that, the applicant/accused is charged with the offences, under Sections-137(2), 87, 64(2)(m), 65(1) of Bharatiya Nagarik Suraksha Sanita and Sections-5(L) 6 & 12 of the Protection of Children from Sexual Offences Act. The applicant/accused has committed penetrative sexual assault with minor victim aged about 16 years 07 months & 21 days by inducing her for marriage. The victim was subjected to sexual assault against her will. It is further submitted that, if the applicant will enlarge on bail, there

will be no deterrent effect on the society. If the applicant will be released on bail, he will threaten the witnesses and temper with the evidence. Ld. Public Prosecutor has placed reliance on the affidavit filed by the Investigating Officer and accordingly prayed to reject the present bail application.

Reasons and Order:-

5. Before deciding the merits and de-merits of the case, it is important to note that, recently in the case of (X minor) Vs. State of Madras, the Hon'ble Supreme Court has held that, **the grounds like – there was a love affairs between the girl and the accused and there was alleged refusal to marry will have no bearing in the ground of bail in POCSO cases.** Furthermore, the POCSO Act is a special Act which has been enacted to curb the social menace of sexual abuse of the children and therefore, the strict norms have set while deciding the bail application, as well as, to proceed with the trial against the accused.
6. Keeping in mind the above principles and after having given anxious thoughts and consideration to various contentions which forwarded by the respective parties, and also considering the contentions, it reveals that, the charges against the present accused is that, the accused has made induced the minor victim girl and removed her from the legal guardianship, and he has committed sexual assault with the victim. Further it reveals that, the victim

girl was aged 16 years, 07 months & 21 days on the alleged date of incident, thus the victim being aged below eighteen years the defence of her willingness of consent and love affair is not valid defence, as per the above principles held by the Hon'ble Supreme Court. It is further pertinent to note that investigation is at preliminary stage and if the accused is released on bail, there is possibility of temper with the evidences and investigation might be prejudiced.

- 7 From the facts of the F.I.R. and the bail application, it reveals that, the accused has taken away the victim from the legal guardianship enticed her under false promise of marriage and committed penetrative sexual assault with her. Thus the conduct of the accused itself shows the mens-rea.
8. Thus, in view of the facts and circumstances stated herein-above, considering the tender age of the victim, the offence levelled against the applicant/accused, and role attributed to the applicant/accused and the punishment prescribed for the same, hence at this stage, if the accused is released on bail, there would be chances to win over of prosecution witnesses, and it will adversely affects the investigation, therefore, considering the charges leveled against the accused, this is not a fit case to exercise the

discretion in favour of the accused, hence following order is passed.

ORDER

- 1 The present Criminal Miscellaneous Applications No.614 of 2026 filed under Section-483 of Bharatiya Nagarik Suraksha Sanita, is hereby rejected.

Pronounced in open Court on 9th day of June, 2026.

Date : 09-06-2026.
Nadiad.

(Prakashkumar P. Purohit)
2nd Additional Sessions &
Special Judge~POCSO
Kheda at, Nadiad.
GJ00685.