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**IN THE COURT OF ADDITIONAL SESSIONS JUDGE &
 SPECIAL (POCSO) JUDGE,
 BHUJ- KACHCHH**

CRIMINAL MISCELLANEOUS APPLICATION No.667 OF 2026

Exhibit: B/8

APPLICANT: **Shyam Sureshbhai Jogi**
 Aged: 19 Years, Occupation: Labour Work
 R/o. Devpar (Yaksh),
 Taluka:- Nakhatrana- Kachchh.
 (At present in Judicial Custody)

V E R S U S

OPPONENT: **THE STATE OF GUJARAT**

Appearance:

Mr. A.R.Malek	:Learned Advocates for the applicant/ Accused.
Mr.H.B.Jadeja	:Learned PP for State.
Mr.N.M.Bhil	:Learned Advocate for the original complainant.

**Application seeking Regular Bail
 under Section 483 of BNSS**

-::JUDGMENT ::-

1. By way of this application under Section 483 of Bharatiya Nagrik Suraksha Sanhita (for short “BNSS”), the applicant-accused has prayed to enlarge him on regular bail in connection with F.I.R. being C.R.No. 11205035260091/2026 registered with Nakhatrana Police Station for the offences punishable Sections 137(2), 87, 54, 64(2)(m), 65(1), 3(5) of BNS as well as Section 4(1)(2), 6 of the POCSO Act.
2. On service of notice, learned PP, appeared for the State and filed affidavit of the Investigating Officer Further, the original complainant has filed objection vide Ex.07 and the same is duly considered by me.
3. Heard learned advocate for the applicant-accused as well as learned PP for the State, perused the application as well as objection raised by the original complainant
4. Learned advocate appearing for the applicant-accused has reiterated the grounds stated in the application and prayed to release the applicant-accused on regular bail. He has further submitted that the applicant-accused is innocent and he has been falsely implicated in the offence. He has further submitted that, there is no prima facie case against the applicant-accused. It is further submitted that, the applicant/ accused has not committed any such type of offence. He has further argued that, there is no need of custodial interrogation of

present applicant/ accused. He has further submitted that, investigation of the present offence is completed and charge-sheet has been filed before the Court which is numbered as POCSO Case no.12/2026. He has further submitted that, the applicant-accused is not having any criminal antecedent. He has further submitted that the applicant/ accused is of very young age having responsibility of maintaining his whole family and if he is not released on bail, his family will have to suffer. It is further submitted that the applicant-accused is ready to abide by conditions that may be imposed by the Court and therefore, he has requested this Court to enlarge the present applicant-accused on bail on appropriate conditions.

5. Referring to the affidavit of I.O., the learned PP appearing for the State, has submitted that looking to the nature of the offence and the involvement of the applicant-accused in the offence, he should not be released on bail. He has further submitted that there is strong prima facie case against the applicant-accused. He has further submitted that, the applicant/accused, in collaboration with the co-accused, has committed aforementioned serious offence against minor girl under the POCSO Act and since the victim is minor, it has had a serious impact on the child's psyche. He has further submitted that there is sufficient evidences against him. He has further submitted that, the applicant/accused after being released on bail, will misuse his freedom and

try to harm the investigation by intimidating and threatening the complainant and witnesses in this case. He has further submitted that, since the said crime is a serious crime under the POCSO Act, if the accused of such a serious crime are granted bail, then a negative message may be sent to the society. Further, Ld. PP has also drawn attention of this Court towards the objection filed by the complainant vide Exh.-07. Hence, the learned PP has requested to reject the present application in the interest of the society.

6. Looking to the material on record, it prima facie appears that the offence punishable under Sections 137(2), 87, 54, 64(2)(m), 65(1), 3(5) of BNS as well as Section 4(1)(2), 6 of the POCSO Act are registered against the present applicant-accused. It is the allegation against the present applicant-accused that, applicant/ accused by giving lure of marriage kidnapped the minor victim girl aged about 16 years, 7 months from the legal guardianship of complainant and frequently made forcefully physical relation with her against her consent.
7. Now, looking to the records, it appears that the applicant-accused was arrested on 26.01.2026. Therefore, he is in custody since more than 4 months. It is further required to note that looking to the affidavit of the investigation officer, there is no requirement of the present applicant-accused for the purpose of the investigation and there is no any submission by the

prosecution for custody of the applicant-accused for the purpose of investigation. Moreover, the investigation of present offence is over and charge-sheet of the case is filed which is numbered as POCSO Case no.12/2026. It is to be noted that it is the first bail application of the applicant/ accused after filing of charge-sheet. Further there is no any allegation against the applicant-accused regarding hampering or tempering the evidence. Though an apprehension is also shown by the Investigating Officer in his affidavit that the applicant-accused may commit the same offence again and tamper with the prosecution evidence and witnesses if released on bail but mere apprehension is not sufficient to deny the bail and that apprehension can be taken care of by imposing suitable conditions. Looking to the present scenario, it is reason to believe that trial may take long time to be concluded. Further, the applicant/ accused is not having any criminal antecedent and it is the first instance when he has booked in any offence. Besides that, looking to the case papers, it's prima facie appeared that the applicant-accused is having young age of only 19 years. Further, looking to the statement of victim before police, it's prima faice appeared that, this is the case of love affair between two adolescent. Thus, if the applicant-accused is not released on bail, there is all likelihood of his pretrial conviction. In this connection, it is to be also required to note that the evidence of material witnesses are yet to be recorded. Therefore, till the recording of the material evidences, the stringent

condition should be imposed upon the accused. Thus, considering the law laid down by the Hon'ble Supreme Court in case of **Sanjay Chandra Vs. C.B.I., reported in AIR 2012 SC 830**, this is a fit case to exercise the discretionary powers in favour of the present applicant-accused. In view of this matter, this Court is inclined to grant this application. But it is to be noted that, the applicant/ accused is involved in serious offence against the minor girl child and though the charge-sheet has been filed before this Court, evidence of material witness like victim and her family members are yet to be recorded, therefore to protect the material evidence of the prosecution, the stringent condition like applicant/ accused not to enter within the local limit of Nakhatrana Taluka is required to be imposed. Hence, the following order is passed in the interest of justice.

:: ORDER ::-

1. The present Criminal Misc. Application is allowed.
2. The present applicant-accused is hereby ordered to be released on regular bail in connection with the F.I.R. bearing C.R.No.11205035260091/2026 registered at Nakhatrana Police Station for the offences punishable under Sections 137(2), 87, 54, 64(2)(m), 65(1), 3(5) of the Bhartiya Nyay Sanhita as well as Section 4(1)(2), 6 of the Protection of Children from Sexual Offence Act, 2012, on executing personal bond of **Rs.15,000/- (Rupees Fifteen Thousand Only)**

with surety of the like amount to the satisfaction of the Ld. Trial Court and subject to the following conditions that he shall;

- (a) not directly or indirectly make any inducement, give threat or promises to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer or tamper with the evidence;
- (b) Not enter in the Nakhatrana Taluka till the further order except on the day of mark his presence before the concerned police station.
- (c) not to contact or tries to contact with the complainant or any family members and/or relatives of the complainant in any manner;
- (d) maintain law and order and not indulge in any criminal activities of similar nature;
- (e) not leave India without prior permission of the Court;
- (f) surrender his passport, if any, within a week before this Court. If he do not possess passport, he shall file an affidavit to that effect;
- (g) mark his presence before the concerned Police Station on **1st Monday** of every month till six months;
- (h) furnish the complete documentary proof of latest & permanent addresses of his residence to the Investigating Officer and also to the Court concerned and shall not change the residence without prior permission of the Court concerned;
- (i) provide his contact numbers as well as the contact numbers of the sureties before the concerned Court

and shall not change such contact numbers without informing to the Court concerned;

- (j) shall not act in a manner injurious and prejudice to the interest of the prosecution;
- (k) not take undue advantage of his liberty or misuse liberty;

3. Bail Bond be furnished to the satisfaction of the learned trial Court.
4. The Jail Authorities will release the applicant-accused only if he is not required in connection with any other offence for the time being.
5. Breach of any of the above conditions shall invite cancellation of bail.
6. Concerned Police Station be informed accordingly.

Pronounced in open Court today i.e. on 02nd day of June, 2026.

sd/-

Place: Bhuj

Date: 02.06.2026

Hiren Dave

(J.A. THAKKAR)

**Additional Sessions Judge &
Special (POCSO) Judge,
Bhuj- Kachchh.
(GJ-00631)**