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Decided on : 09/03/2026
Duration:-00 Yr.-01 Mths-02 Ds

Exh. -09

**BEFORE THE HON'BLE ADDITIONAL SESSIONS JUDGE, AT
RADHANPUR, DIST.: PATAN.**

Criminal Misc. Application No. 56 of 2026

1. Bhavsangbhai Gandabhai Kathadiya

Age abt.: 44 Years, Occupation: Labour,
Resi at: Chamarvas, Nr. Mahajanvada,
Tal: Radhanpur, Dist: Patan.

:::: Applicant.

V E R S U S

1. Government of Gujarat,

Though : A.P.P.,

:::: Opponent.

**Sub:- An Application for Anticipatory bail
U/s.482 of the Bharatiya Nagarik Suraksha Sanhita
(BNSS), 2023.**

Appearances :

Mr. D.C. Thakkar, Ld. Advocate for the applicants.
Mr. S.K. Patel, Ld. APP for Opponent - State.

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

(1) The present applicant has preferred this application under the provision of Sec.482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 for enlarging them on anticipatory bail for the offences punishable u/s. 64(1), 351(1), 351(3), 54 of Bharatiya Nayay Sanhita, 2023 (in short BNS) registered with the Radhanpur Police Station bearing C. R. No.11217027260014/2026.

(2) The Learned Advocate for the applicant/accused has mainly relied on the contentions raised in the memo of application and has argued that it is apprehension by the applicant/accused that he may be arrested on accusation of having committed and registered before the Radhanpur Police Station bearing C. R. No.11217027260014/2026 for the offences punishable u/s. 64(1), 351(1), 351(3), 54 of BNS. It is further submitted that the applicant/accused is innocent and he has not committed any offence. It is further submitted that the applicant/accused has been falsely implicated in the said offence.

(3) It is further submitted that the complainant has alleged that on 17.10.2025, the accused threatened to make a video viral and therefore she did not disclose the incident to her family. She further stated that on 07.11.2025, under threat, she went to Bahucharaji and thereafter performed court marriage with accused at Dariyapur, Ahmedabad. It is further submitted that these allegations are false and fabricated. In

fact, the complainant and the accused were in a love relationship for about eight months and used to communicate through phone calls and messages. They voluntarily performed marriage registration on 07.11.2025 at Dariyapur, Ahmedabad. There was no force, threat, or coercion by the accused. The photographs of marriage, mobile messages, and videos showing that the complainant stayed at the accused's house willingly support this fact. Later, when the complainant's mother came to know about the marriage, she opposed it and compelled the complainant to obtain divorce through a notarized document dated 24.12.2025 at Deodar. Therefore, it is contended that the present complaint has been falsely lodged at the instance of the complainant's mother.

(4) If the applicant got arrested, his reputation in the society will be ruined. It is further submitted that the applicant/accused is resident of address mentioned in the cause title of Patan District and hence there is no possibility to flee away from the justice. The applicant/accused will obey all the conditions imposed by the Court while granting bail to them and will cooperate with the I/O. Reliance is place on the decisions of Hon'ble Supreme Court in case of **Siddharam Satlingappa Mhetre vs State Of Maharashtra** to contend that the applicant should be granted anticipatory bail application. It is accordingly urged to allow present application.

(5) On issuance of notice, Ld. APP Mr. S.K. Patel appeared on behalf of the State. Investigating Officer Mr. H.V. Chaudhary, PSI, Radhanpur Police Station submitted an affidavit vide Exh.07 in which he has stated that the applicant/accused has committed the offences punishable u/s. 64(1), 351(1), 351(3), 54 of BNS, registered with the Radhanpur Police Station bearing C. R. No.11217027260014/2025. It is stated that, on 17.10.2025 between 15:00 to 16:00 hours, the complainant went to the office of accused No.1 Bhavsangbhai Gadabhai Kathadiya at Bhanshali Sheri, Radhanpur. It is alleged that accused No.1 took the complainant to his office on the pretext of writing registers, gained her confidence and committed forcible rape, and threatened to make the video viral and to kill her. It is further alleged that on 07.11.2025, when the complainant had gone to Bahucharaji to collect her nursing result, accused No.1 along with accused No.2 Prakashbhai Gadabhai Kathadiya and accused No.3 Hansaben took her in a car and threatened that if she did not marry accused No.1, they would make the CCTV videos viral. Thereafter, by intimidating her, they allegedly took her to Dariyapur Ward, Ahmedabad and forcibly performed court marriage with accused No.1, thereby assisting each other in the commission of the offence. It is further stated that if the applicant/accused will be released on bail, then there is possibility that he may flee away from the justice and he will threaten or induce the complainant/victim and witnesses and also temper the evidences and thereby adversely

affect the case. Lastly, it is prayed to reject the present bail application. Ld. APP appeared on behalf of the State and argued parallel to the facts of the affidavit of the Investigating Officer and prayed to reject the present bail application.

(6) The present application is also opposed by original complainant who has filed his objection vide Exh.08. She has urged to consider the arguments of the prosecution as well as his objection (Exh.08) and has urged to reject the regular bail application.

(7) Heard the learned Advocates for the respective parties. The Court has gone through the bail application, affidavit of the I.O. and record of the case. It is clarified that the observations made by this Court is tentative in nature and is confined for deciding this bail application and will have no relevance during the trial. Following circumstances is taken into consideration for deciding this bail application:-

(i) The offence committed on 17/10/2025 and the FIR in connection with the offence has been lodged on 10/01/2026 i.e. after delay of almost 3 three months and no sufficient explanation has been given by the complainant for such delay.

(ii) On perusing the evidence, prima facie it appears that the complainant and accused had acquaintance prior to the alleged incident. The material placed on record by the applicant

indicates that both parties were in connection with each other and had performed marriage registration on 07.11.2025 at Dariyapur, Ahmedabad before Registrar. The applicant has also produced prima facie material such as photographs of marriage and mobile communications indicating that the complainant/victim had accompanied the accused voluntarily. Thus, it clearly appears that the accused and the victim/complainant are husband and wife. No decree of divorce passed by a competent court is produced by the prosecution. Only a notarized divorce deed is placed on record. As per Hindu law, a divorce becomes valid only when it is granted by a competent court, and a notarized divorce deed has no legal validity. Therefore, prima facie, the marriage between the applicant and the complainant/victim is still subsisting.

(iii) Moreover, the marriage was solemnized before the Marriage Registrar, which is a public authority, and there is no material on record to indicate that any threat or coercion was exercised at the time of registration of marriage. Moreover, considering affidavit of I.O. at Exh.07, it appears that there is no antecedent against the present applicant. Considering above mentioned facts and circumstances of the case, this court deems it fit to exercise discretion in favour of the applicant/accused considering the decision of ***Nikhil Applicant Vs. State of Maharashtra, Anticipatory Bail Application No.2256/2021, Bombay High Court.***

(8) In view of facts and circumstances stated herein above, considering the facts and circumstances of the case, this court is inclined to exercise discretion in favour of the applicant and accordingly following order is passed.

- : ORDER :-

1. The present application is hereby allowed.
2. The applicant- **Bhavsangbhai Gandabhai Kathadiya** is hereby ordered to be released on anticipatory bail in connection with Radhanpur Police Station bearing C. R. No.11217027260014/2026 for the offence under Section 64(1), 351(1), 351(3), 54 of BNS.
3. The applicant shall report before the concerned police station on 12/03/2026 between 11:00 a.m. to 5:00 p.m., meantime the applicant shall not be arrested by the police. The applicant shall execute personal Bond of **₹.25,000/- (Rupees Twenty Five Thousand Only)** each and surety of the like amount. The applicant shall abide by the following conditions:

- (a) *The applicant/accused shall cooperate with the investigation and make himself available for interrogation whenever required;*
- (b) *The applicant/accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;*
- (c) *The applicant/accused shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the*

police;

- (d) *The applicant/accused shall, at the time of execution of bond, furnish the address to the investigation officer and the court concerned and shall not change his residence till the final disposal of the case till further orders;*
- (e) *The applicant/accused shall not leave territory of Gujarat State without prior permission of the Court.*
- (f) *The applicant/accused shall surrender his passport before the trial Court, if he holding, else he shall file affidavit that he do not have passport.*

4. Bail Bond to be executed before the concerned Police Station.
5. Copy of this order be sent to the concerned Trial court and police station.

Pronounced and signed in the open court today.

Date : 09/03/2026
Place : Radhanpur

Shaikh...

(Milan Girishchandra Dave)
2nd Additional Sessions Judge,
Patan @ Radhanpur
Code-GJ00522