

Cr.M.A. No.1926/2026

Judgment

RECEIVED ON : 12-06-2026  
 REGISTERED ON: 12-06-2026  
 DECIDED ON : 25-06-2026  
 DURATION : DD-MM-YY  
 13 - 00 - 00  
 Exh. No. : 7

**IN THE DESIGNATED COURT OF PRINCIPAL  
 DISTRICT & SESSIONS JUDGE, AT : RAJKOT**

**Criminal Misc. Application (Regular Bail - After Charge  
 Sheet) No.1926/2026**

**Mustakbhai Nurmahmedbhai Chauhan**

**(as per FIR : Mustak @ Bathu Nurmahmedbhai Chauhan)**

Age : 43 Years, Occupation : Business

Resident : 208-Gori Vado, Varaval

Patan - Veraval

J U N A G A D H                      ...      ...      ...      Applicant

**VERSUS**

The State                      ...      ...      ...      Opponent

**Appearance**

Mr. R. M. Bambhava, Learned Advocate for the applicant

Mr. T. M. Gokani, Learned Special P.P. for the opponent -State

**Application Under Section 483 of The B.N.S.S.**

**J U D G M E N T**

- 1] The applicant, who came to be arrested by **Veraval Police Station, Dist. Gir Somnath**, for the offence alleged to have been committed under **Sub-Section (ii) of Section 3(1)**,

**3(2) and 3(4) of The Gujarat Control of Terrorism and Organized Crime Act, 2015, registered vide C. R. No.11186009260133/2026,** has preferred the present application under Section 483 of The B.N.S.S. praying for regular bail.

Previously, the applicant has preferred **Criminal Misc. Application No.1222/2026** before charge sheet for regular bail before this Designated Court, which came to be rejected on 27-04-2026. Thereafter, the applicant has preferred **R/Criminal Misc. Application (for Regular bail – Before Charge Sheet) No.11735/2026**, which he has withdrawn.

- 2] On being served with the process, the Learned Special PP appeared for the State. The Investigating Officer has submitted his affidavit at **Exh.6**.
- 3] Heard Learned Advocate Mr. B. R. Bambahva for the applicant, who has reiterated the averments of the application. He has also submitted that, the applicant is totally innocent and has not played any role in the alleged offence, however, he has been falsely implicated in the present offence. He has submitted that, the applicant has co-operated during interrogation. He has submitted that, the applicant is in judicial custody since 24-02-2026. He has submitted that, the applicant has no connection with any organized crime syndicate activity as defined under

GCTOC Act. He has submitted that, as per F.I.R. there is no personal allegation against the applicant. He has further submitted that, the investigation qua present applicant is over and the Investigating Officer has submitted the charge-sheet, hence, the question of hampering or tampering with prosecution witnesses does not arise. He has submitted that, charge sheet has been filed and considering the same as change in circumstances, the applicant should be enlarged on bail. He has submitted that, co-accused (1) Pratap Jayantilal Thavar Kharva, (2) Rameshbhai Bachubhai Vaja – Koli and (3) Jokikumar Maheshbhai Patel have been enlarged on bail by the Hon'ble High Court of Gujarat and the role of co-accused and the present applicant are similar and therefore, on the ground of parity, present applicant should be enlarged on bail. He has submitted that, past antecedents shown against the applicant cannot be considered for deciding present bail application, since there is no prima facie case against the present applicant in the present alleged offence. It is also submitted that applicant has already been acquitted in several of earlier criminal cases. He has submitted that, the applicant is young and if he is kept in jail custody then no purpose would be served. He has submitted that, *“Bail is rule, Jail is exception”* and *“Bail should not be refused as a means of punishment. The applicant's right to legal defence maimed, if liberty curtailed”*. He has further submitted that, the entire responsibility of the family of the applicant is on his

shoulders, and hence, if he is kept in judicial custody till the trial is over then the family of the applicant will have to face dire consequences. Under these circumstances, the Learned Advocate for the applicant has urged that, the applicant may be granted regular bail on suitable terms and conditions that may deem just and proper to the Court to which the applicant has assured to abide.

- 4] Per contra the Learned Special P. P. Mr. T. M. Gokani appeared on behalf of the State through Video Conference and opposed the grant of relief stating and contending that, the involvement of the applicant in the alleged offence cannot be ruled out. The Learned Special P. P. has submitted that, the applicant is having criminal antecedents and has expressed his apprehension that, if the applicant is enlarged on bail, he may jump the bail and there is possibility of hampering or tampering with the prosecution witnesses. The Learned Special P. P. has further submitted that, eight offences were registered against the applicant and all eight offences were alleged to have been registered after promulgation of GCTOC Act. Also submitted that applicant is gang leader of the **“organized crime syndicate”** and has committed several offences. He has submitted that, even if co-accused are enlarged on bail by the Hon’ble High Court of Gujarat then also the role of present applicant is not similar or identical to that of the co-accused who have been enlarged on bail by the Hon’ble

High Court, hence, principle of parity is not applicable in the present case. The Learned Special P. P. has submitted that, mere filing of charge sheet does not in any manner lessen the allegations made by the prosecution. It is further argued that, there is strong prima facie case against accused and the matter being under Special Act, discretionary power should not be exercised in favour of the applicant. Hence, requested to reject the present application.

- 5] The Investigating Officer Mr. C. C. Khatana, Deputy Superintendent of Police, I/c. Veraval Division, Veraval, Dist. Gir Somnath has filed an exhaustive affidavit vide **Exh.6**, whereby, he has resisted this bail application stating and contending about the crimes committed by the applicant since last ten years. It has been stated that, considering the terror which was unleashed by the **“organized crime syndicate”**, it would not be advisable to enlarge the applicant on bail. Hence, he has requested to reject the bail application.
- 6] Brief facts as reflect from the statements and allegations made by the prosecution, so also from the police investigation papers along with the report submitted by the Investigating Officer, it transpires that the applicant along with co-accused are alleged to have hatched conspiracy and formed unlawful assembly and also alleged to have been illegally imported large quantities of Indian made foreign

liquor from outside States like Haryana, Rajasthan, Punjab, Maharashtra, Uttar Pradesh and stored and sold it for their own financial gain and alleged to have committed crimes and have thereby received huge money or have obtained properties from the said monies. The applicant along with other co-accused are alleged to have committed several offences in Gir Somnath District and surrounding Districts and area. The applicant along with co-accused are alleged to have earned monies from such illegal activities and thereby harmed country's economy and by earning monies from such activities they do not pay any tax to the Government which increases black monies. It is further case of the prosecution that, the applicant along with co-accused as member of the "organized crime syndicate" and the present applicant is gang leader who is involved in various unlawful activities of purchasing and selling Indian made foreign liquor since last more than ten years. Thus, due to high headed activities and involvement in severe crimes and fear and apprehension in the mind of public at large, no citizens – complainant - victims come forward to lodge the complaint against the present applicant-accused who is otherwise rather impressing upon public as a bullied and dangers to the society. It transpires that, the present applicant is alleged to have committed offences for which eight F.I.Rs. have been filed.

From the perusal of report of Investigating Officer, it appears that, the applicant along with other co-accused as

leader of the “**organized crime syndicate**” are alleged to have committed several offences.

- 7] Thus, the sum and substance of aforesaid offences which apparently indicate the involvement of the present applicant in total eight offences since last ten years. It further appears that, the F.I.R. was lodged against present applicant and other seven co-accused persons under the provisions of GCTOC Act, since they were running an “organized crime syndicate” of which, the applicant is a gang leader. The said syndicate had continued with unlawful activities which included purchase, sale and stored of Indian Made foreign liquor, Arms Act, Epidemic Act, National Disaster Management Act, Gambling Act etc.

From the perusal of report and the investigation papers, it appears that applicant has committed almost all offences along with other co-accused. It appears that, the applicant has committed in all eight offences and all eight offences were alleged to have been committed after promulgation of the GCTOC Act. It appears that, the applicant and other co-accused have committed most of offences interse with the gang members. It appears that, the applicant along with co-accused as leader of “**organized crime syndicate**” have committed in all forty six offences. The gang had created an atmosphere of threat in Gir Somnath District. Hence, after promulgation of the GCTOC Act, present applicant is alleged to have indulged in

“continue unlawful activities” as per Section 2(1)(c) of the GCTOC Act.

- 8] Learned Advocate for the applicant-accused has contended that, now the charge sheet is filed and there is no chance of any tampering or hampering with the investigation and thus there is change in circumstances. On this point, this court would like to refer the observations made by Hon’ble Supreme Court in the case of **Virupakshappa Gouda and another V/s. State of Karnataka and another, reported in (2017) 5 Supreme Court Cases -406**, wherein the Hon’ble Supreme Court has held that ;

*“filing of charge sheet does not in any manner lessen allegations but rather establishes that after due investigation prosecution has filed charge sheet for trial of accused persons – Additional Sessions Judge was not guided by established parameters for grant of bail and failed to consider that bail application of appellants was rejected thrice and even Supreme Court had declined to enlarge applicants on bail – Moreover, gravity of crime found on anachronistic values prompting annihilation of young life should have been taken note of while granting bail – Hence, quashment of bail by High Court, affirmed.”*

- 9] So far as the contention raised by Learned Advocate for the applicant that, co-accused (1) Pratap Jayantilal Thavar



Kharva, (2) Rameshbhai Bachubhai Vaja – Koli and (3) Jokikumar Maheshbhai Patel have been enlarged on bail by the Hon'ble High Court of Gujarat and the role of co-accused and the present applicant are similar, and therefore, on the ground of parity, present applicant should be enlarged on bail is concerned, the role of the co-accused who has been enlarged on bail by the Hon'ble High Court of Gujarat cannot be equated with the role of the present applicant for the reason that, the present applicant along with co-accused as a leader of the organized crime syndicate are indulged in offences pertaining to purchasing and selling of Indian made foreign liquor, economic offences etc. Further, the Hon'ble Supreme Court in the case of **Ramesh Bhavan Rathod V/s. Vishalbhai Hirabhai Makwana (Koli) and another, reported in (2021)6 Supreme Court Cases 230**, has observed that :

*“Parity while granting bail must focus upon role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance”.*

- 10] It is pertinent to note here that, previously the applicant has preferred Criminal Misc. Application No.1222/2026 before

charge sheet for regular bail before this Designated Court, which came to be rejected on 27-04-2026 and thereafter, the applicant has preferred **R/Criminal Misc. Application (for Regular bail – Before Charge Sheet) No.11735 of 2026**, which he has withdrawn. Moreover, the applicant is having criminal antecedents and the apprehension expressed by Learned Special P. P. that if the applicant is enlarged on bail he would once again indulge in such type of offence and the poor and gullible citizens are at the receiving end from the unscrupulous and dishonest elements like the applicant and co-accused cannot be ruled out. Hence, considering the aforesaid facts, involvement of applicant in present offence cannot be ruled out.

- 11] Though, this Court is in agreement with the ratio laid down in the judgments cited by Learned Advocate Mr. B. R. Bambhava, with all due respect and humility, this Court would like to observe that, considering the gravity of the offence, the same cannot be made applicable to the present case.
- 12] This Court has carefully examined the entire available record and particularly allegations which have been directly attributed to the accused and these allegations are corroborated by other materials and circumstances on record. Considering the entire material available, nature of acquisition, severity of punishment in case of conviction, and the nature of supporting evidence, reasonable

apprehension of tampering with the witnesses and the evidence, and prima facie satisfaction of the Court in support of the charge, character of the accused, reasonable possibility of securing presence of the accused at the time of trial and impact on the society at large is required to be considered. Considering all aforesaid parameters, this Court is of the opinion that discretionary powers are not required to be exercised in favour of the present applicants-accused. Hence, the following final order.

**ORDER**

The present Criminal Misc. Application (for Regular Bail – After Charge Sheet) No.1926/2026 is hereby **rejected**.

Pronounced in the open court today on this 25<sup>th</sup> day of June, 2026.

Place : R A J K O T

Date : 25-06-2026

[ **Jitendra Rameshchandra Shah** ]

Principal District & Sessions Judge  
(Designated Court, GCTOC Act)

R A J K O T

**Code No.GJ01044**

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