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EXH. 7

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

**Criminal Misc. Application (for Regular Bail- After charge
sheet) No.2307/2026.**

Ashraf Karimbhai Kathrotiya,
R/o.Khatkivas Opp.to Street No.77,
Old Morbi Road,
Rajkot.
Original r/o.Vanthli,
Dist.Junagadh.
(At present in Junagadh District Jail)

::: APPLICANT.

VERSUS

The State

::: OPPONENT.

Appearance :-

Mr.C. S. Vyas, Ld. Advocate for the applicant.

Mr.T. M. Gokani,, Ld. Special P.P. for the opponent – State.

Application U/s. 483 of the BNSS.

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

- 1] The applicant, who came to be arrested by **Rajkot City, B” Division Police Station**, for the offence alleged to have been committed under **Sub.Sec.(1) of Sec.3(1), 3(2) & 3(4) of Gujarat Control of Terrorism and Organized Crime Act,2015**, registered vide **C.R. No.11208051260245/2026**, has preferred the present application under Section 483 of BNSS praying for regular bail.
- 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 Ld. Advocate Mr.C. S. Vyas 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 applicant was arrested on 29/03/2026 and was remanded upto 02/04/2026 and since then he is in judicial custody. He has submitted that, the applicant has cooperated during interrogation. He has submitted that, applicant is alleged to have committed in all 03 offences, however, the said offences were not alleged to have been committed along with member of organized crime syndicate. He has submitted that, applicant has committed 03 offences; out of that one offence is of year 2019, second offence is of year 2020 and third offence is of year 2023.

That in the offence registered in the year 2019 and 2020, the applicant has been acquitted and as per charge sheet of third offence, punishment prescribed is upto 2 to 3 years, hence, prima facie GCTOC Act is not applicable against the applicant. He has submitted that, that prosecution has failed to submit any evidence to show that present applicant is in continuous unlawful activity. The applicant has not indulged any offence after 2023, hence, present case does not come within the preview of Sec.2(2) of GCTOC Act. He has submitted that, the applicant is not involved in any organize crime nor he is member of organized crime syndicate nor he has taken any financial benefit. He has submitted that, the applicant has not involved with main accused. He has submitted that, the affidavit submitted by I.O. does not show that now there is need for further investigation, hence, the applicant should be enlarged on bail. He has submitted that, the applicant has not taken any monetary benefit and there is no evidence of such monetary benefit on record. He has submitted that, the applicant has not committed any offence along with member of organized crime syndicate. He has submitted that, ingredients of provisions of GCTOC Act are not applicable against present applicant. He has submitted that, as per F.I.R. there is no personal allegation against the applicant. 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. He has submitted that, the applicant is young and if he is kept in jail custody then no purpose would be served. He has further submitted that, the investigation qua the 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, *“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. He has mentioned in the bail application in the case of Firoz Khan V/s. State (NCT of Delhi) on 29th may,2020 Bail Application No.945/2020, in the case of Jallaludin v/s. Union of India. Under these circumstances, the Ld. 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.

Ld. Advocate for the applicant has relied upon the following authorities :-

- 1] Mukeshbhai Vallabhbhai Abhangi V/s. State of Gujarat, reported in LAWS (SC)-2023-5-119,
- 2] Mustufa Akbarbhai @ Hakubhai Khiyani V/s. State of Gujarat in R/Criminal Misc. Application (For Regular bail – After chargehseet) No.7832/2023,

decided on 11/12/2023, by Hon'ble High Court of Gujarat,

- 3] State of Maharashtra and others V/s. Shiva and others, reported in LAWS (SC)-2015-7-6,
- 4] Maheshbhai Jethabhai Makwana V/s. State of Gujarat in R/Criminal Misc. Application (For Regular bail – After chargeheet) No.4902/2025, decided on 16/10/2025, by Hon'ble High Court of Gujarat,

- 4] Per contra the Ld. Special PP Mr.T. M. Gokani appeared on behalf of the State and opposed the grant of relief stating and contending that, the involvement of the applicant in the alleged offence cannot be ruled out. The Ld. Special PP 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. He has submitted that, police has recorded statements under Section 183 of B.N.S.S. against the present applicant and co-accused. He has submitted that, offence registered in the year 2023 is with main gang leader. The Ld. Special PP has further submitted that, 03 offences were registered against the applicant, and out of 03 offences, 02 offences were alleged to have been committed prior to promulgation of GCTOC Act whereas 01 offence was alleged to have been committed after promulgation of GCTOC Act. The Ld. Special PP has further submitted that, the applicant is the main gang leader and is the active member of the

“organized crime syndicate” and has committed several offences. 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 I.O. Mr.B. J. Chaudhary, Assistant Commissioner of Police, East Division, Rajkot City 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 10 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 equipped and possessed with lethal weapons and alleged to have caused grievous and severe fatal injuries to the complainant and prosecution witnesses/protective**

witnesses and further alleged to have threatened prosecution witnesses and protective witnesses to face dire consequences. It is further case of the prosecution that, the applicant along with co-accused are members of the “organized crime syndicate” and the present applicant is proactive members who are involved in various unlawful activities and offences like attempt to commit murder, murder, grievous hurts, threats, Arms Act, obstruction in performing duties of government servants, Prohibition Act etc., since last more than 10 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. In continuation of the statements and allegations, the present applicant along with co-accused are alleged to have involved in several cases pertaining to the persons and properties and the cases against them are pending who after being released on bail / furlough / temporary bail and otherwise are also alleged to have been threatening the prosecution witnesses and protective witnesses and alleged to have extorting money. It transpires that, the present applicant is alleged to have committed 03 offences for which F.I.Rs. have been filed against him.

From the perusal of report, it appears that, the

applicant along with other co-accused as members 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 03 offences since last 10 years. It further appears that, the F.I.R. was lodged against present applicant and other 06 co-accused persons under the provisions of GCTOC Act, since they were running an “organized crime syndicate”, of which, the applicant was a member. The said syndicate had continued with unlawful activities which included, attempt to commit murder, murder, grievous hurts, threats, Arms Act, obstruction in performing duties of government servants, Prohibition Act etc.,

From the perusal of report and the investigation papers, it appears that applicant has committed almost both offences along with other co-accused. It appears that, the applicant has committed in all 03 offences, and out of 03 offences, 02 offences were alleged to have been committed prior to promulgation of GCTOC Act whereas 01 offence was alleged to have been committed after promulgation of 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 members of “organized crime syndicate” have committed in all 27 offences. Hence, after promulgation of the GCTOC Act, the present applicant is

alleged to have indulged in “continue unlawful activities” as per Sec.2(1)(c) of the GCTOC Act.

- 8] Moreover, during the course of investigation, the victims as well as protected witnesses have given their statement under Section 183 of B.N.S.S. before the Magistrate, who all have stated that, the applicant and co-accused are active members of the “**organized crime syndicate**” and are actively involved in the “continuing unlawful activities” of the gang. These witnesses have categorically stated that, the gang comprised of all the accused persons mentioned in the F.I.R. as well as other accused who were arraigned during the course of investigation. All the accused were habitually committing grievous crimes ranging from extortion, attempt to murder, rioting, grievous hurts, Arms Act, damages to person and property etc., Thus, the involvement of the applicant in the present case cannot be ruled out.
- 9] Though, this Court is in agreement with the ratio laid down in the judgments cited by Learned Advocate Mr.Vyas, 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.
- 10] 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 applicant-accused. Hence, the following final order.

:: ORDER ::

- 1] The present Criminal Misc. Application (for Regular Bail) No.2307/2026 is hereby rejected.

Pronounced in open court today on this 14th day of July, 2026.

Place : Rajkot
Date : 14.07.2026

(Jitendra Rameshchandra Shah)
Principal District & Sessions Judge,
(Designated Court, GCTOC Act),
RAJ KOT
Code No.GJ01044

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