

Cr.M.A. No.2371/2026

Judgment

RECEIVED ON : 09-07-2026
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 DURATION : DD-MM-YY
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Exh. No. :7

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

**Criminal Misc. Application (Regular Bail – After Charge
 Sheet) No.2371/2026**

Osman Musabhai Khafi,
 R/o.Chal of Harshadmill,
 Dwarkesh Apartment B-2,
 Jamnagar,
 (At present in District Jail, Bhavnagar) **::: APPLICANT.**

VERSUS

The State **::: OPPONENT.**

Appearance

Mr. S. A. Rathod, Learned Advocate for the applicant
 Mr. T. M. Gokani, Learned Special P. P. for the opponent - State

Application under Section 483 of B.N.S.S.

J U D G M E N T

- 1] The applicant, who came to be arrested by **Jamnagar City “A” Division Police Station**, for the offence alleged to have been committed under **Sub.Sec.(2) of Sec.3(1), 3(2), 3(4) & 3(5) of Gujarat Control of Terrorism and**

Organized Crime Act, 2015, registered vide **C. R. 11202008260635/2026**, has preferred the present application under Section 483 of B.N.S.S. praying for regular bail. This is the first application after filing of charge sheet.

- 2] On being served with the process, the Learned Special P. P. appeared for the State. The Investigating Officer has submitted his affidavit at **Exh.6**.
- 3] Heard Learned Advocate Mr. S. A. Rathod 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 long. He has submitted that, the applicant has no connection with any **“organized crime syndicate”** activity as defined under GCTOC Act. He has further submitted that, the investigation qua the present applicant is over and the Investigating Officer has submitted the charge-sheet, which has been registered as **GCTOC Case No.21/2026**, hence, the question of hampering or tampering with prosecution witnesses does not arise. He has submitted that, 02 offences have been registered against the applicant, and in most of offences, trial has been concluded and in other offence the

applicant has been enlarged on bail. He has submitted that, the applicant has not abetted any co-accused of the members of the organized crime syndicate. He has submitted that, there is no direct or indirect evidence to show that, the applicant is involved in organized crime syndicate. It is submitted that in the bail order of accused Sandip Omprakash Gupta of Surat D.C.B. Police Station, the Hon'ble High Court has observed that out of six offences registered against accused, only one offence is registered as member of organized crime syndicate and other offences have not been registered as member of organized crime syndicate and only one offence is registered after GCTOC Act came into operation. Relying upon the decision in the case of Mahmad Illiyas Mahmad Kapadiya in Special Leave Application No.1815/2022, he has submitted that in present case only one charge sheet was filed in respect of an activity which can be said to have been undertaken by the applicant as a member of an organized crime syndicate on behalf of such syndicate, and therefore, the present applicant should be enlarged on bail. He has submitted that, "*Bail is rule, Jail is exception*" and "*Bail should not be refused as a means of punishment*". 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.

In support of his aforesaid submissions, he has cited judgments in his application in the case of Bhaveshbhai Rameshbhai Patel V/s. State of Gujarat, reported in 2015(0) AIZELHD-232160 and in the case of Bhagirathsinh Jadeja V/s. State of Gujarat, reported in 1984 AIR (SC)-372.

- 4] Per contra the Learned Special P. P. 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 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. He has submitted that, 02 offences were alleged to have been registered against the applicant and out of 02 offences, 01 offence was alleged to have been committed prior to promulgation of the GCTOC Act, whereas 01 offence was alleged to have been committed after promulgation of the GCTOC Act. The Learned Special P. P. 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 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.Jayvirsinh Zala, Deputy Superintendent of Police, Jamnagar City Division, Jamnagar, 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 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 member who is involved in various unlawful activities and offences like attempt to commit murder, grievous hurt, extortion, quarreling, sale of narcotic substance, abetment, Arms Act, house burglary, violation of proclamation, etc. 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. 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 offences for which 02 F.I.Rs have been filed.

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 indicates the involvement of the present applicant in total 02 offences since last ten years. It further appears that, the F.I.R. was lodged against present applicant and 10 co-accused persons under the provisions of GCTOC Act, since they were running an **“organized crime syndicate”** of which, the applicant was gang leader. The said syndicate had continued with unlawful activities which included, attempt to commit murder, grievous hurt, extortion, quarreling, sale of narcotic substance, abetment, Arms Act, house burglary, violation of proclamation, etc.
- 8] From the perusal of charge sheet it appears that, the applicant along with other co-accused as leader of the **“organized crime syndicate”** are alleged to have committed several offences. From the perusal of report of the Investigating Officer it appears that, the present applicant is alleged to have committed in all total 02 offences since last ten years. It further appears that all the 02 offences were alleged to have been committed, out of 02 offences, 01 offence was alleged to have been committed prior to promulgation of the GCTOC Act whereas 01 offence was alleged to have been committed after promulgation of the GCTOC Act. It appears that, the

applicant along with co-accused as leader of “**organized crime syndicate**” have committed in all 31 offences. It appears that, the applicant and other co-accused have committed most of offences interse with the gang members. The gang had created an atmosphere of threat in Jamnagar District and City area. Hence, after promulgation of the GCTOC Act, the present applicant is alleged to have indulged in “**continue unlawful activities**” as per Section 2(1)(c) of the GCTOC Act.

- 9] Moreover, considering the affidavit and the documentary evidence, it appears that the involvement of the applicant in the present case cannot be ruled out. Thus, 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.
- 10] Though, this Court is in agreement with the ratio laid down in the judgments cited by Learned Advocate Mr.Rathod, 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.
- 11] 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 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.2371/2026 is hereby **rejected**.

Pronounced in the open court today on this 21st day of July, 2026.

Place : R A J K O T
Date : 21-07-2026

[**Jitendra Rameshchandra Shah**]
Principal District & Sessions Judge
(Designated Court, GCTOC Act)

R A J K O T

Code No.GJ01044

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