

GJSK010013042026 	Admitted on	:	19.05.2026		
	Decided on	:	01.06.2026		
	Duration	:	00 Years	00 Months	13 Days

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE
SABARKANTHA AT HIMMATNAGAR**

Exh. No.....

Criminal Misc. (Regular Bail) Application No. 549/2026

Applicant : **Rajbir Shaktibhai Luhar,**
Age: 18, Occupation: Labour,
Resident At: Bhilvas, Ta.Himmatnagar,
Dis.Sabarkantha

Versus

Opponent : The State of Gujarat,
Notice through the DGP.
DGP. Office, Himmatnagar, District-Sabarkantha.

Appearance: Applicant side - Ld. Advocate Shri. M. N. Patel
Opponent side - Ld. AdPP Shri. J. S. Jetavat

J U D G M E N T

1. The applicant – accused has filed the present application under sec. 483 of the BNSS to obtain the regular bail in connection with the offence registered with Himmatnagar "B" Division Police Station I. C. R. No. 112 090

562 60473 / 2026 under Sections 137(2), 87, 64(2)(I)(M) of BNS and sec. 4, 5(1), 6 of The POCSO Act dated 05/05/2026.

2. Read the present bail application, perused the case record and taken into consideration the material. It is submitted by the applicant - accused that he was arrested by police and produced before this Court and was sent to judicial custody and the investigation is going on.

Hence, this one is the first bail application, preferred after the arrest.

3. The gist of the arguments advanced by Learned Advocate for the applicant - accused is such that has submitted that, the applicant is innocent person, not committed the crime whatever alleged by the prosecution against him. The offence alleged is triable by this court, the investigation is going on and he is not having any criminal antecedents.

He is of 18 years and engaged in labour work and is in jail since 05/05/2026.

As per the FIR, the offence has alleged to have been committed by him. The FIR is delayed by 25 days and no plausible explanation has been offered and he has been named in FIR.

Both the parties are belong to same community and but not belong to same villages.

It was a case of love relationship and the victim and accused both have entered into a love relationship. Both were in love relationship for Last 5 year.

He was engaged to victim and she was her fiancée.

As the accused was of 18 years and was below 21 years, the accused side denying for marriage, so he left her home at her own will and reached to accused at Mumbai. The complainant side called his father to return

the victim but the victim herself denied to return to her parental home. This is the reason for the false implication.

It is also submitted that there is no direct evidence against him. Only on the basis of suspicion, he has been falsely implicated. There is no prima facie case against him. The complainant has lodged a complaint mala-fide intention against the applicant and has been falsely implicated in the present case and there is no evidence which may lead to conviction in this case.

The victim left her home at her own will & returned to her home at her own will. Hence, no case of kidnapping, has been made out. The victim has not been caught from the possession of accused.

The substantial investigation has been completed.

He has become the victim of the pre-trial conviction.

It is also submitted that he is local resident and engaged in Private Job and sole bread earner of his family. He is having family. If he is not released on bail, he has to remain in jail for unnecessary longer period and his family has to suffer a lot. He is ready & willing to furnish bail as court deems fit and shall comply with all the conditions imposed upon him. So, it has been urged to be enlarged on bail with suitable terms and conditions.

4... The Ld. DGP/AdPP has appeared on behalf of the opponent i.e. the State and has filed the affidavit of the Investigating Officer.

The victim/complainant has been offered adequate opportunity to submit his/her representation against the present application and any such representation made and objections raised, has been taken into consideration while deciding this application.

The complainant/victim has made an endorsement below exbt – 1 and declared that they have "No Objections" and such representation have been taken into consideration while deciding this bail application.

5... Moreover, Ld. DGP/AdPP has raised a strong objection against granting the present application and has submitted that accused has allegedly committed a gravious offence, prima-facie case has been made out and prima-facie involvement has been revealed, and the investigation is going on.

The victim is of 16 years 11 months and 02 days and is of too younger age, whereas the accused is of 19 years.

He has been named in FIR, and his name has been confirmed during the investigation.

He already knew that the victim is minor and kidnapped her and committed gravious offence.

There are allegation of kidnapping of minor girl & repeated sexual intercourse.

Although the accused was fiance of the victim, he did not have the right to exploit a girl of such a tender age.

Both the parties belong to same community and residing same villages.

The applicant may jump the bail, if enlarged on bail or may repeat the offence. Therefore, in these circumstances, as the applicant is not entitled to be enlarged on bail, the present application is required to be dismissed.

6... Heard the submissions of both the sides and perused the complaint, affidavit of Investigating Officer and police papers submitted by the State during the course of hearing as well as the representation made by the victim side.

7... While dealing with the issue of which factors are required to be considered while deciding bail application, in a case of State of Uttar Pradesh v. Amarmani Tripathi, reported in 2005(8) SCC 21, the Hon'ble Apex Court held that "it is well settled that the matters to be considered in an application for bail are (i) Whether there is any prima facie or reasonable ground to believe that the

accused had committed the offence (ii) nature and gravity of the charge (iii) severity of the punishment in the event of conviction (iv) danger of the accused absconding or fleeing, if released on bail (v) character, behavior, means, position and standing of the accused (vi) likelihood of the offence being repeated (vii) danger, of course, of justice being thwarted by grant of bail. Moreover, the Hon. Apex Court also held that while a vague allegation that the accused may temper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.” The above laid down ratio is required to be kept in mind while exercising discretion to enlarge on bail.

8... Now in the present matter, I have heard the Ld. Advocate for the parties, perused the case-record. From the perusal of case record, it is undisputed that the accused is the main breadwinner of the family and is engaged in labor work to support himself and his family and the offence alleged is triable by this court, the investigation is going on and he has no criminal antecedents.

It is pertinent to note that this court has ample powers to enlarge on bail and the court is required to assign reasons for allowing or disallowing the bail and not supposed to discuss in detail each and every point raised in detail and deep appreciation of evidence is not required at this stage..

It appears that he is of 18 years, engaged in labour work and is in jail since 05/05/2026.

It is also undisputed that he has not been named in FIR, But his name has surfaced during the investigation.

It is undisputed that the offence alleged has been registered under POCSO Act and as well as under BNS and the victim was of 16 years 11

months and 02 days victim and accused is of 19 years and is an unmarried person and both are from same community and also residing in the nearby areas.

Now in the backdrop of the peculiar facts of this case, looking at the statements of the victim, they are from same areas and from the same caste and admittedly it is a case of love relationship.

It has been contended that the F.I.R. is delayed by 25 days and no plausible explanation has been given by the complainant but looking at the facts and circumstances of the case, but no much value can be attached to such point at this stage.

But, on both the side it has been undisputed that the applicant is of 19 years and the victim is of 16 years 11 months and 02 days it is also undisputed that physical relations were built several times during such period of alleged offence.

9... Now in the backdrop of the peculiar facts of this case, looking at the statements of the victim, as per the statement of the victim, they were in love and relationship for five years and used to talk with each other on mobile phone. They were engaged with each other and therefore, they were fiance and fiancée. When her parent restrained her from talking with the accused, they both decided together to elope, and so she left her parental home and reached to railway station at 08:00 PM at night and they both boarded the trains and reached to Mumbai and they resided together for 20 days approximately. Moreover, as per the statement of victim, the victim was not coerced to elope or conduct sexual intercourse with the accused.

He is of 19 years and is in jail since 05/05/2026 and as per the record, substantial investigation, has been completed.

Moreover, the applicant accused is of 19 years and is in jail since 05/05/2026, and is of young age and is having family responsibility and substantial investigation has been completed.

No previous enmity or consistent animosity between the parties, has been established.

The complainant has made an endorsement below the application and has declared that an amicable compromise has arrived at between the parties and so they have no objection against enlarging the accused on bail and such fact has been taken into consideration while deciding this application.

Moreover, prevailing circumstances suggest that no purpose would be served by incarcerating him pending entire the trial.

The same facts discussed above, requires due consideration and the same can't be overlooked or sidelined or disregarded while deciding this application and this case deserves a discretion to be exercised in favour of the applicant.

10... Moreover, it has been contended that he has been falsely implicated, there is no prima-facie case against him, and he has not committed the offence alleged and he has been falsely implicated on the basis of the suspicion and no evidence that may lead to his conviction.

But it is pertinent to note that no deep appreciation of evidence is required at this stage.

However, from the facts brought on record, nothing reasonable has been produced on record to substantiate the fact so claimed and grounds set forth for relief sought and in absence of any such supporting material, it remained bare allegation and nothing else.

Perusal of the affidavit made by the investigation officer, investigation papers etc., reveals that there is a prima facie involvement in the offence and it does not appear that the accused has been enroped falsely in this offence.

11... It is obvious that it will take considerably a long time to conclude the trial, and as such period being an indefinite one, such a factor should be

considered positively while deciding the present bail petitions.

Moreover, the fear expressed by the prosecution side, can be addressed by imposing some stringent conditions.

12... Moreover, in the light of the above said set of facts and circumstances, nature of offence as well as considering the provisions of punishment for the alleged offences committed by the applicants - accused, this case appears fit to exercise the discretion vested with, to enlarge the applicants - accused on bail subject to some stringent conditions and so far as the bail conditions are concerned the court has to strike balance between the personal liberty as well as the interest of prosecution. Hence, the following order is hereby passed.

ORDER

[a] The present application is, hereby, allowed conditionally.

[b] The Applicant – accused namely

1. Rajbir Shaktibhai Luhar,

[c] is hereby enlarged on bail in connection with offence registered with **Himmatnagar "B" Division** Police Station C. R. No. 112 090 562 60473 / 2026, on furnishing personal bond for Rs. 1,00,000/- and with one local surety of like amount, subject to following conditions:-

Conditions:

1. The applicant - accused shall not tamper with evidence in any manner and shall not act in a manner detrimental to the interest of the prosecution.
2. The applicant - accused shall maintain law and order.
3. The applicant shall duly co-operate in the investigation process.
4. The applicant - accused shall produce a copy of proof of his identity as well as a copy of proof of address to the trial Court.

5. The Applicant shall not to leave the State without prior permission of the trial Court.
6. The applicant – accused shall mark his presence before the concerned police station on the 1st & 15th date of calendar month till the filing of charge-sheet.
7. The applicant shall not remain present or enter in Himmatnagar Taluka for Three (3) months from the date of this order except to remain present in the courts or police station.

The Bail Bond be furnished before this court.

A yadi of this order be sent to the concerned Police Station.

As per the direction given in the judgment of Aparna Bhatt Vs. State of MP, 2021 (0) AIJEL-SC 67130, Investigation Officer has to provide a copy of this order to the victim/complainant within 3 days from the date of this order.

Read & Pronounced in the open Court.

Date : 01/06/2026
Himmatnagar.

M. N. Shaikh. (GJ00611),
Special Judge (POCSO), Himmatnagar (S.K.)

Pramod S. Goyal***