

GJSK010013892026 	Received on :	29.05.2026		
	Registered on :	29.05.2026		
	Decided on :	03.06.2026		
	<u>Duration :</u>	00 Years	00 Months	05 Days

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

Exhibit _____

Criminal Misc. (Regular Bail) Application No. 586/2026

Applicant: **Bharatsinh Jehusinh Zala,**
Age: About 54 Years,
Resi. Of: Jashaji Ni Muvadi, Ta.Talod,
Dis.Sabarkantha

V E R S U S

Opponent: **The State of Gujarat**

Appearance:

Mr. R.P. Parmar, Learned Advocate for the Applicant
Mr. A.J. Patel, Learned Special PP for the Opponent – State

**APPLICATION SEEKING REGULAR BAIL U/S 483 OF
THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023**

J U D G M E N T

[1] Brief facts of the present application:

The applicant herein is alleged to have committed the offences under Section 65(a)(e) and 81 of the Gujarat Prohibition Act. The offences in respect thereof have been registered with Talod Police Station as Crime Registration bearing No. 11209049260425 of 2026.

The crux of the present application is that the applicants/accused herein are alleged to have been involved in the offence in respect of trading in foreign liquor in a very big

way running into lacs of rupees and to be precise **Rs.5,79,613/-** along with the other accused. In the bail application, the applicant/accused herein has stated that he is completely innocent and therefore, he may be enlarged on the bail.

[2] Arguments:

(a) By the learned advocate for the applicant:

The learned advocate for the applicant/accused herein would advance his arguments in respect of present bail application stating that in the present case, the applicant/accused herein has been absolutely innocent and done nothing for which he may be kept in jail, that the role of this accused is almost nil, that the applicant/accused herein has been falsely implicated in the alleged offence in respect of trading in liquor though he has nothing to do with it, that the applicant/accused is suffering from cancer and heart disease as reveals from the medical papers made available on the record as well and unless the present applicant/accused be released on regular bail, he will have to tremendously suffer physically and mentally and therefore, he may kindly be enlarged on bail.

(b) By the learned Special Public Prosecutor for the State:

The learned Special Public Prosecutor would put forward his arguments saying that the applicant/accused herein is involved in very serious crime and spoiling the moral and fabric of entire society, that this offence is affecting the health of the society, that the applicant herein has played serious role in the serious offences, that the muddamal liquor has been found from his house which reveals that the applicant/accused herein was

within the knowledge and was engaged in the business of foreign liquor, that as regards the medical problems faced by the applicant/accused herein, he has been already undergoing medical treatment since long, that there are three antecedents against the present applicant/accused and consequently, he may kindly be denied the bail.

[3] Considerations and reasons:

Regard being had to the contents of the bail application, police papers, affidavit of Investigating Officer vide Exhibit 9 and say of learned advocate for the applicant and learned Special Public Prosecutor, the present matter revolves around the factual aspect that has been narrated herein after. Before advertent to the emergence of the factual matrix from the record of the case, it is worthwhile to comprehend the factors governing the grant or rejection of the bail. It is hasten to add here that those factors are culled out from the law operating in and the principles laid down in various decisions applicable to the field of the bail.

This Court is the conscious of the fact that this is not the stage where it can be gone into the merits or demerits of the case, appreciation of the evidence or any other criteria touching upon the merits of conviction or acquittal at the end of the trial.

While granting bail, the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses

being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima-facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt. In this regard, the reference may be made the decision of **Honourable Apex Court** in **Nimmagadda Prasad V/s Central Bureau of Investigation, AIR 2013 SC 2821.**

The principles of bail has succinctly been narrated in English decision and same has been approved by **Honourable Apex Court** in **Gudikanti Narasimhulu and others V/s Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SC 429.** The said principles go as follows:

Lord Campbell C.J. concurred in this approach in that case and Coleridge J. set down the order of priorities as follows:

"I do not think that an accused party is detained in custody because of his guilt, but because there are sufficient probable grounds for the charge against him as to make it proper that he should be tried, and because the detention is necessary to ensure his appearance at trial. It is a very important element in considering whether the party, if admitted to bail would appear to take his trial; and I think that in coming to a determination on that point three elements will generally be found the most important; the charge, the nature of the evidence by which it is supported, and the punishment to which the party would be liable if convicted. In the present case, the charge is that of willful

murder; the evidence contains an admission by the prisoners of the truth of the charge, and the punishment of the offence is, by law, death."

"The significance and sweep of Art. 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorizing it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Art. 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom by refusal of bail is not for punitive purpose but for the bi-focal interests of justice - to the individual involved and society affected."

Keeping in focus the aforesaid factors, let us examine the factual aspect emerging from the record and relevant papers. The present accused is allegedly involved in running the supply chain of the foreign liquor in a large chunk and cache. He seems to be making available flow of liquor in the State of Gujarat. This creates the real possibility of continuation of similar offences being committed unabated. That the accused is involved in transporting the liquor on a large scale, the presence of accused is most likely not secured and possibility cannot be ruled out of fleeing from justice and trial.

From the prism of aforesaid factual scenario, the arguments of the learned advocate for the accused needs to be examined, which stand on two footings; (a) the applicant/accused herein being not involved in the crime; and (b) there is no reliable evidence on record by which the accused herein can be connected with the crime in question.

Both of these arguments go against the tenor of the material available on the record. The panch witnesses and the other material in the form of police papers and affidavit clearly

reveal that the applicant/accused herein had also played a role in giving shape to the present offence. The role of the present accused, of course *prima facie*, well established from the available material at the present moment.

Scrutiny of the arguments of learned advocate for the applicant herein from the backdrop of aforesaid factual background run counter to the factual aspect emerging from the record and they are merely stated to be rejected.

The evidence on record is pointing towards the fact that the applicant/accused along with other co-accused herein is the only person, who have also *prima facie* appeared to have played role as here is the person who himself has supplied the liquor and without his action of supplying the liquor, the other accused cannot be given shape to the offence in question. Consequently, this crucial link of evidence and in the face of this piece of evidence, releasing of accused on bail would definitely dissuade the witnesses from putting out true version as it has been coming-out from the statements of the witnesses. **In this background, the arguments on both the counts of the learned advocate for the defence do not stand against the specific facts which are brought to the fore by the police papers and other circumstances gravely suspect the applicant/accused herein. In this backdrop, the arguments on both the counts stand repealed.**

In the aforesaid setting, the three elements which are very vital for the consideration of grant or rejection of bail, the first one is the charge which is of very serious nature commission of

trading in a big manner in foreign liquor. The next one is the reasonable grounds for believing the existence of charge being supported by *prima facie* evidence and the evidence establishing the guilt of the accused beyond reasonable doubt is not expected of by the legislature at this stage, the third very vital element is the quantum of punishment with which the applicant would be liable if convicted.

In the present case, the main charge of commission of trading in a big manner in foreign liquor, there is *prima facie* material available on the record supporting the charge of said offences in the form of statements of the persons, who have seen the incident, facts, circumstances and events emerging therefrom and other material on the record and punishment prescribed for the said offence in Section 65(a)(e), which prescribed the punishment extending upto ten years and fine.

These elements on one hand and the procedure which have been put in place on the other about depriving of personal liberty under Article 21 of the Constitution are going hand in hand to justify the time being suspension of right of personal liberty for the sake of the interest of justice and society at large. In this context, in the set of facts and circumstances of the present case, reasonableness expects that deprivation of freedom by refusal of bail is not for punitive purpose, but for the bi-focal interests of justice to the individual involved and society affected.

Considerations to the aforesaid material elements bring to the fore and the manner in which the alleged offence effected by the applicant along with other co-accused therein gives an

impression that he along with other co-accused has given shape to said criminal act as though no rule of law is in prevalence which exhibits their characteristics. This betrays that there is all the likelihood that enlarging the accused on bail would lead to tempering with witnesses, who may be prevented from speaking out truth before the authority in front of which they are duty bound to testify in connection with the present case as and when time arrives.

Medical ground for enlarge on bail has been put forward on the basis of all the diagnosis reports and treatments by prescriptions and other ways happened and of the year 2025. No latest reports have been submitted requiring any treatment by way of hospitalization immediately. Accordingly, medical ground seems to be subterfuge to have himself enlarged on bail only. Still as an abundant caution, certain directions have been issued in the operative part to take care of the applicant herein if medical need arises.

Besides the interest of administration of justice, society at large and victim persuade that the denial of request to enlarge on bail would be absolutely just, proper and according to law. Hence, the following order is passed;

ORDER

- The present regular bail application **stands rejected**.
- The Superintendent, District Jail, Himmatnagar is directed to make available intensive and prompt medical services if

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medical needs arise to the applicant/accused herein through doctor of his choice.

- The special diet and food be allowed to have to the applicant herein, if the doctor advises so as a part of his medical treatment, if situation so demands.

The order is pronounced in the open Court on the **03rd** day of **June, 2026** under my hand and seal.

Date: 03/06/2026

Place: Himmatnagar

[Kanubhai R. Rabari]

Sessions Judge

Sabarkantha at Himmatnagar

UIC No. GJ 00477

Pramod S. Goyal***

