

Admitted on	03	06	2026
Decided on	08	06	2026
	Dys	Mths	Yrs
Duration		--	--

**IN THE COURT OF ADDL. SESSIONS JUDGE, AT HIMMAT NAGAR,
DIST: S.K..**

Cri. Misc. Appli. No. 603/2026

Exh. No.....

Applicant : **1. Bharatkumar Maheshbhai Vaghela,**
Age: 36, Occupation: Labourer

2. Shailesh Jayantibhai Nayak,
Age: 42, Occupation: Labourer

Both Resident At: Pilundra,
Ta: Prantij, Dist. S.K..

Versus

Opponent : The State of Gujarat,
Notice through the DGP.
DGP. Office, Himmat Nagar, District- S.K..

Appearance: Applicant side - Ld. Advocate Shri. J. D. Zala
Opponent side - Ld. DGP Shri. H. V.Trivedi.

J U D G M E N T

1... The applicant – accused person has filed the present application under sec. 483 of the BNSS to obtain the regular bail in connection with the

offence registered with Talod Police Station I. C. R. No. 112 090 492 50777 /2026 under Sections 305, 331(3), 54 of the BNS dated 14/11/2025.

2... In consistency with contentions made in the bail petition, Ld. Advocate for the applicant has reiterated, his entitlement to such bail on the basis of facts enumerated in the bail petition and submitted that they were arrested by police and produced before the Id. Magi. Court and were/was sent to judicial custody.

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

3... In consistency with contentions made in the bail petition, Ld. Advocate for the applicant has reiterated, their/his entitlement to such bail on the basis of facts enumerated in the bail petition and submitted that the offence alleged to have been committed is triable by magi. Court, not with death or life imprisonment and investigation is going on.

The Applicant no.1 is of 36 years, Applicant no.2 is of 42 years, both are engaged in labour work and is in jail since 02/06/2026.

The complainant has filed the complaint with malafide intention. The whole case is a fabricated one. They have been implicated falsely on the basis on the suspicion. No prima-facie case made out against the applicant - accused person.

They have not been named in FIR. They were not presence on the spot of the offence. They have been framed in an undetected case.

The applicant has 3 (Two) criminal antecedents and not shown to have been convicted in any offence and have been nenlarged in bail in the same offences and the same case are pending.

The total amount of muddamal is Rs. 71,740/-. The muddamal has already been recovered or discovered. No muddamal has been recovered from them. Now no muddamal has remained to be recovered.

The FIR is delayed one and no plausible explanation has been offered for the same.

They have been arrested on the basis of the doubt only. There is no evidence available that can lead to their conviction.

It is also submitted that the applicant is local resident, along with his family and he is having responsibilities of family. It is also submitted applicant is innocent person. They will co-operate the investigating agency and will not flee away during the trial. Therefore, this one is a fit case for enlarging on bail. Hence, urged to grant the regular bail on the conditions as deem fit to Hon. Court.

4... The Ld. AdPP appeared on behalf of the opponent i.e. the state and has filed the affidavit of the Investigating Officer and the same has been taken into consideration.

Moreover, raising a strong objection against granting the present application, Id AdPP has submitted that there are serious allegations of theft against the applicant – accused and the investigation is going on and has casted a doubt that there is a possibility of tampering with evidence and hampering in investigation.

They have been arrested due to the confession made before the police.

The total involved muddamal is Rs. 71,740. It is the case of Theft in temple at night. The Cash from donation Box and Silver Ornaments and Sword were stolen at night by committing criminal trespass. Only one Chhatar of Silver has been recovered and rest of the muddamal has yet to be recovered.

They have He has 3 (Three) criminal antecedents.

They have not been named in FIR and has been implicated on the basis of confession before the police and their role has been surfaced and confirmed during the investigation.

In a given circumstances, no unreasonable delay has been caused in lodging FIR.

Looking to the role of the accused and also the gravity of the offence, he is not entitled to be enlarged on bail. The applicant may jump the bail, if enlarged on bail or may repeat the same type of offence and tampering with evidence may not ruled out. The investigation is at crucial stage and therefore, under the circumstances, has prayed that the application be rejected.

5... 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.

6... Now in the present matter, I have heard the Ld. Advocates for the parties, perused the police papers and affidavit filed by the Investigating Officer. However, from the facts brought on record, it is undisputed that the applicant is the local resident, he is having responsibilities of his family and the

alleged offence is triable by the magisterial court and not punishable with death or life imprisonment and investigation is going on.

It appears that the Applicant no.1 is of 36 years, Applicant no.2 is of 42 years, both are engaged in labour work and is in jail since 02/06/2026.

As per the case of prosecution, they committed theft in the temple and the Cash from donation Box and Silver Ornaments and Sword etc. were stolen at night by committing criminal trespass, the same case involves and the total amount involved is Rs. 71,740/- in form of cash. They have been implicated as main accused in the offense and the victim is 36 year old and is an administrator of the same temple.

It appears that they are the local resident of pilundra.

It appears that both the parties do not reside in the same village.

It appears that they have not been named in FIR but they have been arrested on the basis of the confession made before the police and their role has been surfaced and confirmed during the investigation.

It appears that they have 3 (Two) criminal antecedents, but it appears that they have been enlarged on bail in the same offences and the same are pending and not shown to have been convicted.

It appears that the offence committed from 13/11/2025 to 14/11/2025 and the FIR has been lodged belated on 14/11/2025 but looking to the circumstances appearing on record no much value can be attached to such contention at this stage.

It is undisputed that only 1 article has been recovered and so, mostly whole of the muddamal has yet to be recovered.

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

7... It has been contended that the muddamal cash has not been recovered from them, they have been framed in undetected case and they have 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.

8... Moreover, looking at the other side, there are serious allegations against the applicant – accused and they have played an active role in commission of the alleged offence which appears to be a serious/gravious one, and investigation is going on, and the same is in the crucial stage, these circumstances can't be disregarded at this stage.

Moreover, it is not a case where the accused is/are languishing in jail for a long time.

9... Hence, in the light of the discussion made above, at this stage, this case does not appear fit to exercise the discretion vested with, in favour of accused and to enlarge the applicant - accused on bail. This court comes to a conclusion that the applicant accused should not be enlarged at this stage and in pursuance there of the following order is hereby passed.

ORDER

The present application/s CRMA No. 603/2026, preferred by applicant accused namely 1. Bharatkumar Maheshbhai Vaghela, and 2. Shailesh Jayantibhai Nayak, and thereby seeking regular bail under sec. 483 of BNSS, is hereby, disallowed.

Read & Pronounced in the open Court.

Date : 08/06/2026
Himmat Nagar,

M. N. Shaikh. (GJ00611),
Addl. Dist. Judge, Himmat Nagar, Dist: S.K..