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**IN THE COURT OF HON'BLE THE 6th  
ADDITIONAL SESSIONS JUDGE, SURAT.**

**CRI. MISC. APPLICATION No. 966 of 2026  
Exh. No**

Sr. No.	Name of The Applicant	Age	Occupation
	Harsh Vishalkumar Seth. Resident of, 6, Nilam Society, No Sharmdayatan School, Umara Gam, Surat.  At present, Central Jail, Lajpor, Surat	29 yrs	Business
V/s			
Sr. No.	Name of The Opponent	Age	Occupation
	The State of Gujarat Through District Government Pleader, Surat	-	-

Sub :- Application under the provisions of Section 483 of The  
BHARATIYA NAGARIK SURAKSHA SANHITA,  
2023.

Appearance :-

Ld. Advocate for the applicant :- Mr. K. P. Reshamwala.  
Ld. A. P. P. for the opponent :- Mr. V. L. Faldu.

**:- Judgment :-**

1. The applicant has filed the present application under the provisions of section 483 of The Bharatiya Nagarik Suraksha Sanhita, 2003 (herein after referred as "**The BNSS**" for short) inter – alia praying for the grant of regular bail in connection with the offense registered as C. R. No. 11210048260038/2026, registered with Umara Police Station, Surat for the alleged commissions of the offense punishable under Sections 137(2), 142 of the Bharatiya Nyaya Sanhita, 2023 (herein after referred to as "**The BNS**" in short) and under the provisions of Sections 12 of The Protection of Children from Sexual Offenses Act, 2012 (hereinafter referred as "**The Act**" for short).
2. The Id. advocate for the applicant has made his oral submission. This is the first bail application of the applicant accused. He has submitted that, the applicant accused has been arrested in connection with the aforesaid offense on 21/01/2026 and he has been kept in judicial custody since then. The case of the complainant against the accused is nothing but a concoction. Further, the complainant has filed complaint against the applicant without knowing true facts and therefore, there is no prima facie case against the applicant. It is further submitted that, the applicant accused has not committed any criminal act as per the alleged offense. It is further submitted that, the applicant is innocent and has committed no offense and if, he be kept in custody,

it will amount to pretrial conviction. He has further submitted that, the applicant is falsely implicated in this case. It is further submitted that, the applicant is young and having responsibilities to maintain his family and residing with his family as mentioned in cause title and therefore, he will not flee from the justice and he will abide by the terms & conditions, which may be imposed by this court as this court deems fit. It is also submitted that, maximum punishment is upto 7 years and the applicant accused has not done any physical acts with the victims. It is also submitted that, in respect to alleged 5 past criminal antecedents, the applicant accused has been already acquitted from the charges and at present, there is no past criminal antecedents and substantial investigation is over. Therefore, it is prayed that, the applicant may be enlarged on regular bail subject to the suitable conditions.

3. The learned APP has also made his oral submission. He has, by reading the contentions of the affidavit filed by the I. O. vide Ex. 04 and 11, opposed the bail application of the applicant - accused. He has mainly submitted that, the accused is 29 years of age, whereas, the victims are below 16 years of age and therefore, despite of knowing that the victims are minors and has took victims without the consent of their parents to clean his house in his own Car by luring the victims and used the injection on his hand and sexually harassed the victims and thereby, has committed alleged offense. It is further submitted that, the accused was well aware about the age of the victims that, they are minor. It is

also submitted that, the applicant accused is having past criminal antecedent and he is alleged to have committed a serious offense. It is also submitted that, during the course of investigation sufficient material have been found against him and therefore, prima facie there appears strong case against applicant - accused. It is also submitted that, during the course of investigation, nothing was found which connect the applicant accused with the child trafficking or child slavery or to commit any other offense in respect to children. Further, it is also stated that, at present, investigation is pending and therefore, if the accused is released on bail than chances of threatening to the victims can not be ruled out. At present, investigation is pending and thus, considering the nature of allegations leveled against the applicant, the present regular bail application of the applicant may be disallowed.

4. The de facto complainant has appeared before this court and has filed her affidavit vide exh. 9 inter alia objecting the grant of the application.
5. I have carefully gone through the rival contentions raised by the ld. advocate for the applicant as well as contentions raised in the affidavit filed by the I. O. vide exh. 04, 11. I have also gone through the affidavit of de facto complainant vide exh. 09 and documents produced on record vide exh. 3 and 10. I have carefully gone through the principle laid down by Hon'ble The Supreme Court in the matter between Sanjay Chandra V/s CBI, in Cri. appeal no. 2178 of 2011. I have also carefully gone through the police papers and

contentions of the complaint. I have also considered the role alleged to be played by the applicant. Except this, nothing further has been attributed against him. I have carefully considered the manner in which the alleged offense is committed, role attributed played by this applicant and the age of the victim and the present accused. It is also on record that, the cases shown against him in affidavit, have been disposed of and in no case, the applicant accused is convicted. On perusal of the police papers, prima facie it appears that, substantial investigation is over.

It is settled principle of law that while deciding the bail application, the court is not required to evaluate the merits or evidence in details. The applicant is at present residing at the address mentioned in the cause title and the presence of applicant can be secured during the course of trial by imposing suitable conditions. Further, considering the role of the present applicant, it appears that, no further custodial interrogation is required. Further, it is settled legal position that the accused should not be kept in custody as part of pretrial conviction and bail is rule, whereas the jail is an exception. Thus, considering the principle of personal liberty as envisaged in the Provisions of Article 14 & 21 of the Constitution of India and the factual aspects of the case as well as nature of offense and allegations against the present applicant, this court is of the view that much time would pass in completion of the trial and if the applicant accused are kept in custody during this period then it would amount to pretrial conviction, therefore, there seems to have reasonable grounds to exercise discretionary power in

favour of the present applicant and therefore, in the interest of justice, the applicant - accused is required to be enlarged on bail by imposing the suitable conditions. Hence, in view of the above, this is a fit case to exercise discretion under Section 483 of The BNSS qua the present applicant to enlarge him on regular bail. Therefore, in the interest of justice following order is passed.

#### ORDER

1. This application No. 966/2026 under the provisions of section 483 of the BNSS, of the applicant is hereby allowed.
2. The present applicant is hereby ordered to be released on bail under the provisions of Section 483 of The BNSS in connection with the offense registered as C. R. No. 11210048260038/2026, registered with Umara Police Station, Surat for the alleged commissions of the offense punishable under Sections 137(2), 142 of the Bharatiya Nyaya Sanhita, 2023 and under the provisions of Sections 12 of The Protection of Children from Sexual Offenses Act, 2012 upon his executing personal bond of Rs. 1,05,000/- (Rupees One Lac and Five Thousand only) with surety of the like amount to the satisfaction of The Id. Trial Court having jurisdiction to try the offenses and subject to the following conditions that applicants shall;

#### CONDITIONS

1. He shall not take undue advantage of liberty or misuse liberty.
2. He shall not act in a manner injuries to the interest of the prosecution.
3. He shall surrender his passport, if any, to the Trial court within a week and if, he does possess the same, than file an

affidavit to that effect.

4. He shall not leave the Territory of Gujarat without prior permission of the this court.
5. He shall not indulge into any criminal activities.
6. He shall mark his presence at the concerned Police Station on first Monday of each English Calendar month for a period of Six months.
7. He shall furnish the present address of residence to the I. O. and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court.
8. He shall not enter into areas whereas, the de facto complainant and victim are residing or pursuing their study.
9. The Authorities will release the applicant only if he is not required in connection with any other offense for the time being.

Bail bond be furnished before the concerned Court having jurisdiction to try the offense.

Necessary Yadi be sent to the ld. trial court and concerned jail authority.

Order is passed and pronounced in Open Court on this 11th Day of March, 2026.

Date :- 11/03/2026

Place :- Surat

Hiteshkumar Mukundray Vyas  
6th Addl. District & Sessions Judge, Surat.  
Judge Code No. GJ00834

Atk