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**IN THE COURT OF 2<sup>nd</sup> ADDITIONAL DISTRICT &  
SESSIONS JUDGE, SURAT AT SURAT.**

**Criminal Misc. Application No. 1474/2026**

**Exh. \_\_**

**Applicant:**

**SUSHIL MAHAVIRPRASAD JOSHI**

Aged- 49 years, Occupation: Business

Address : Plot No.123, Shiv-vatika Society,

Vedant School Road, Dindoli, Surat.

At Present Central Jail, Lajpor, Surat.

**VERSUS**

**Opponent:**

The State of Gujarat.

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**Appearance:**

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Ld. Advocate Shri. N. A. Solanki for the Applicant.

Ld. D.G.P. Shri. M.K. Bhrambhatt for the State.

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**AN APPLICATION UNDER SECTION 483 OF THE BNSS**

**: JUDGMENT :**

- 1) Present application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”), wherein the applicant seeks a Regular bail in connection with FIR No. C-194/2016, registered at Surat Salabatpura Police Station, Surat, for the offences punishable under Sections 406,409,420,120B,114 of the Indian Penal Code.
- 2) On being served with the process, the Ld. Public Prosecutor appeared for the opponent - State. The Investigating Officer has submitted his affidavit vide Exh. 4.
- 3) The Ld. advocate for the applicant/accused has submitted that the accused is innocent and has been falsely implicated in this case. It is further submitted that the applicant/accused has been arrested on 30/11/2025 in connection with Salabatpura Police Station C.R. No. 194/2017 for the alleged offences punishable under Sections 406, 409, 420, 120(B) and 114 of the IPC. It is further submitted that the alleged incident is said to have taken place between 03/11/2014 to 22/04/2016, whereas the FIR was filed on 15/11/2016, i.e., after an unexplained delay of about seven months, which creates serious doubt about the prosecution story. The

Learned Advocate for the applicant has submitted to this Court that investigation qua the present applicant is already over and the police has filed charge-sheet before the Court, therefore, there is no question of tampering with the evidence of the prosecution. Further, the applicant states that he has never dealt with the complainant, has never purchased goods, and has never signed any bills or challans. He was merely an employee of co-accused. Even the address shown in the FIR is the address of accused No. 3, where the applicant was working. It is further submitted that the FIR itself shows that the complainant delivered goods at the address on the instruction of a broker/dalal, and not at the instance of the present applicant. Thus, the applicant has been wrongly implicated without any direct transaction. The applicant is a permanent resident of Surat, living with his family, and is the sole breadwinner. He suffers from BP-related health issues, and continued incarceration will cause irreparable hardship to his family. The applicant undertakes to abide by any conditions that may be imposed by the Court and submits that there is no possibility of absconding or misusing liberty if released on bail. Considering the above

facts, the learned counsel prayed that the applicant be granted regular bail.

4) On the other hand, the Learned Public Prosecutor (Ld. APP), appearing on behalf of the respondent-State, opposed the present bail application, arguing that the alleged offence is of a serious nature. It is further submitted that the applicant, along with other co-accused, formed a pre-planned criminal conspiracy and procured goods from the complainant and several other textile traders through various brokers, and dishonestly withheld payment. It is further submitted that the applicant obtained goods worth Rs.5,59,94,55/- were fraudulently obtained in the name of “Shiv Shakti Tex Fab”. It is further submitted that the applicant has not paid a single rupee to the complainant or to any of the said traders, thereby committing serious offences of cheating, breach of trust and misappropriation. It is further submitted that the offence is a classic example of white-collar crime, which is increasing drastically. Releasing the applicant on bail will send a wrong message to the business community, create fear and insecurity among traders, and may encourage similar fraudulent practices. It is submitted that Investigation is still

in progress. The complainant is a resident of Surat City, and if the applicant is released on bail, there is a possibility that he may threaten or pressurize the complainant or witnesses. It is submitted that if bail is granted, the applicant may again indulge in similar offences. By making aforesaid submissions he has prayed for dismissing the present Bail Application.

5) The granting or rejecting the bail application is a discretionary relief. The Court is duty-bound to exercise its discretion judiciously, with due caution, and in strict adherence to the fundamental principles laid down by the Hon'ble Supreme Court and Hon'ble High Court in numerous decisions regarding the grant of bail. It is well established that several key factors must be considered while deciding a bail application, including, (i) the nature and seriousness of the accusation; (ii) the applicant's criminal history, if any, particularly past convictions involving cognizable offences; (iii) the likelihood of the applicant fleeing from justice; and (iv) whether the accusation appears to have been made with the intent to harass, injure, or humiliate the applicant through arrest. Also, at the bail stage,

a detailed analysis of the evidence or findings that may prejudice the accused should be avoided.

6) Having heard both sides upon reviewing the investigation and Police papers, it appears that the allegations against the applicant are grave and serious in nature. The record prima facie indicates that the applicant, along with other co-accused, engaged in a systematic and pre-planned fraudulent activity, obtaining goods worth several crores from multiple traders without making payment. It appears that the investigation is still in progress, and certain co-accused are yet to be arrested. Releasing the applicant on bail at this stage may hamper investigation, as there exists a reasonable apprehension that the applicant may influence witnesses, tamper with evidence, or assist other accused in evading arrest. Since the FIR was filed, the accused has been absconding. The contention of the applicant that he was merely an employee cannot be accepted at this stage. It is also pertinent to note that earlier bail application bearing Criminal Misc. Application No. 9416 of 2025 filed by the present applicant came to be rejected by this Court. Further, considering the facts and circumstances of the case, it is

required to be noted that the Hon'ble Apex Court in various judgments, has held that merely filing of charge-sheet is not a sole ground to allow the bail application of applicant/accused, when there is prima-facie case against the applicant/accused. Considering the nature of allegations, the ongoing investigation, and the possibility of misuse of liberty, this Court is of the opinion that the applicant has failed to make out a case for grant of bail. Hence, following order is passed.

### **ORDER**

- The application for bail filed by the present applicant-accused is hereby **REJECTED**.
- Yadi of this order be sent to all the concerned for knowledge, information and compliance.

Signed and Pronounced in the open Court today i.e. on 9<sup>th</sup> March, 2026.

Date:09-03-2026  
Surat.

**(Rakesh Rajnikant Bhatt)**  
2<sup>nd</sup> Additional Sessions Judge,  
Surat  
(Unique ID Code: **GJ00608** )

v