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

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**CRI. MISC. APPLICATION No. 1564 of 2026
Exh. No**

Sr. No.	Name of The Applicant	Age	Occupation
	Bharatpal Chandansingh Rajput Resident of 166, Krishnapark Society Godadara, Surat. At present, Central Jail, Lajpor, Surat	26 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. H. S. Devare.

Ld. A. P. P. for the opponent :- Mr. T. A. Pancholi.

:- 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. 11210064251816/2025, registered with Godadara Police Station, Surat for the alleged commissions of the offenses punishable under Sections 74, 75(1)(1), 78(1)(1), 351(1), 351(3), 54 of the Bharatiya Nyaya Sanhita, 2023 (herein after referred to as "**The BNS**" in short) and under the provisions of sections 7 and 8 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. It is further submitted that, now the investigation has been over and charge sheet has been filed, which has been registered as Special POCSO Case No. 34/2026. It is submitted that, this is the first bail application of the applicant. He has submitted that, the applicant accused has been arrested in connection with the aforesaid offense on 15/01/2026 and has been kept in judicial custody since then. The case of the complainant against the accused is nothing but a concoction. Further, the present applicant accused has not done any sexual intercourse with the victim and the applicant is not charge with offenses where the punishment is provided with life imprisonment or more than it. It is further submitted that, the statement of witnesses have been already recorded and hence there is no question arise of intimidate or threatening or to indulge into any

illegal acts. 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. Further, the applicant accused having no any criminal antecedents. It is further submitted that, the applicant accused has been arrested by the Police on the basis of suspicious only. He has further submitted that, the applicant is falsely implicated in this case. It is further submitted that, the applicant is residing at Surat as mentioned in cause title and is having responsibility to maintain of his family and he will not flee from the justice and he will abide by the terms & conditions, which may be imposed by this court including conditions not to enter into the area where the victim resides for certain period as this court deems fit. Therefore, it is prayed that, the applicant may be enlarged on regular bail subject to the suitable conditions.

3. The Id. APP for the State has made his oral submissions by reiterating the contentions raised in the affidavit filed by the IO vide exh. 4. He has mainly submitted that, despite of knowing that the victim is a minor and has not completed 18 years of her age, the accused has forcefully undressed the victim at back sit of the car and sexually assaulted her. 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. Further, if the accused is released on bail then chances of flee from justice. At present, recording

of evidence of other material witnesses 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 and victim have appeared before this court and has filed written representation vide exh. 5 inter alia objecting the grant of the application.
5. I have gone through the contentions of the application filed by the applicant, affidavit filed by the I.O., submissions advanced by Id. advocate for the applicant as well as Id. A.P.P. for the State and carefully gone through the police papers. I have also gone through the written representation vide exh. 5.

At this stage, before considering the rival submissions, it is imperative to know the allegations of the victim against the accused in her complaint. On perusal of the complaint, it is emerging that, the accused happened to be friend of the brother of the victim and the co accused had asked the victim to sit in the back side of his car, saying that, her brother is calling her. Thereafter, drove his car in secluded place and after sitting in back side seat of the car with the victim, and had forcibly removed her T-shirt and put it in the tool box of the car and thereafter, started kissing her. Further, the present applicant accused had called the co

accused and the co accused had asked him to come there and therefore, the present applicant accused had gone there within a very short time and thereafter, he had sit in the back side of the car with the victim and had started shooting in mobile by saying that, "the victim has come to see him and she is not afraid of her brother and now, I will be physical with her and I will show this video to everyone" and thereafter, started shooting video of the victim. The victim was hiding her face with her hands, but, the present applicant accused was removing her hands from her face and thereafter, the co accused had step down the car and thereafter, the present accused had told the victim that, he likes her and if she would not keep physical relationship with him than he would show the video to everyone. Thereafter, the accused stopped the video shooting and started forceful relation with her. The victim was resisting, but, the present accused had forcefully undressed her cloths and kissed her on her lips and breast and has attempted to touch his penis to her vagina and therefore, the victim had started shouting and therefore, the accused had left her.

Thus, considering the aforesaid allegations leveled against the applicant accused along with the definition of Rape as defined in the provision of section 63 of The BNS or an attempt to commit such an offense punishable under the provisions of section 62 of The BNS as well as penetrative Sexual Assault under the

provision of section 3 of The Act or an attempt to commit such an offense punishable under the provision of section 18 of The Act, this court is of the view that, prima facie, it appears that, the applicant has not only committed the alleged offenses and but, has also committed serious offenses other than those as mentioned herein above and thus, has committed the offenses punishable under the provisions of The BNS and The Act as stated above. Further, the present applicant accused, being friend of the brother of the victim, was also aware about the fact that, the victim is minor and therefore, has taken disadvantage of the situation. Not only that, but, has also abetted and attempted to commit the serious offense against the minor girl, as stated herein above.

I have also carefully gone through the papers made available. It transpired from the record that the applicant - accused alleged to have committed serious offense against the minor child and serious allegations are leveled against him and there appears prima facie case against him. Further, it is alleged that, the applicant was aware about the age of the victim, still, has committed the offense and therefore, there is prima facie case against the applicant and at present, the evidence of the material witnesses have not been recorded and therefore, if the applicant is released on bail than chances of threatening them or hampering the course of justice or flee from justice can not be ruled out.

Further, filing of charge sheet is not a change in circumstances but in the given facts and circumstances, it further strengthens the case of the prosecution against the applicant accused.

Thus, from aforesaid discussions, at present stage, in the facts and circumstances of the case on hand, this court is of the view that, no case is made by the applicant accused for exercise of discretionary power in his favour and therefore, at this stage, no case is made out to exercise the power vested u/s 483 of the BNSS and therefore, this court does not incline to exercise its discretionary power in favour of the applicant and hence, in the interest of justice, following order is passed.

It is also imperative to note that, these allegations are also leveled in the FIR filed by The Victim. The Investigating officer has also narrated the said facts in his affidavit as well as in charge sheet filed by him. Still however, Police Inspector Shri H. K. Acharya and Police Sub Inspector Shri J. R. Tiwari of The Gadodara Police Station have not added proper section against the accused in the charge sheet and therefore, this court is of the view that, the copy of this order be sent to The Commissioner of Police, Surat for initiation of proper inquiry qua them.

ORDER

The application filed by the applicant under the provisions

of section 483 of The BNSS is hereby disallowed and rejected.

The copy of this order be kept with the file of POCSO case no. 34 of 2026.

The copy of this order be sent to The Commissioner of Police, Surat for necessary action qua the P.I. and PSI of Gadodara Police Station in accordance with law.

Order is passed and pronounced in Open Court on this 9th Day of March, 2026.

Date :- 09/03/2026

Place :- Surat

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

PHS