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Date of Decision	18/03/2026
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Exh.	

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

**CRI. MISC. APPLICATION No. 1625 of 2026**

Sr. No.	Name of The Applicant	Age	Occupation
	Jagdishsing Sarvansing Bajwa Resident of, Vill.- Marara, Tal.- Barampur, Dist.- Gurdaspur, Punjab.  At present: Lajpor, Central Jail	35 years	Labour
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 439 of The Code of Criminal Procedure, 1973.

Appearance :-

Ld. advocate for the applicant :- Mr. K. A. Dubey.

Ld. A. P. P. for the opponent :- Mr. V. L. Faldu.

**:- Judgment :-**

- The present application has been filed by the applicant accused under the provisions of section 439 of The Code of Criminal Procedure, 1973 (herein after referred as "**The Code**" for short) inter – alia praying for the grant of regular

bail in connection with the offenses registered as C. R. No. 11210045253654/2025, registered with Pandesara Police Station, Surat for the commission of the offense punishable under the provisions of section 376 of The Indian Penal Code, 1860 (herein after referred to as "**The IPC**" in short).

2. The Id. advocate for the applicant has made his oral submission. He has submitted that, the applicant accused was arrested in connection with the aforesaid case on 02/03/2026 and has been kept in judicial custody since then after. The case of the complainant against the accused is nothing but a concoction. The victim is elder than the accused and they were having consensual relationship since 2015. The complainant has also mentioned the period for commission of offenses from 2015 to 22.03.2025 and the complaint is filed on 14.08.2025 and therefore, there is huge delay in filing of complaint, which is not explained by the complainant and therefore, the same create doubt about the veracity of the complaint. Thus, the applicant - accused has not committed any offense as mentioned in the F.I.R. and therefore, there is no prima facie case against the applicant. It is further submitted that, whatever had happened between the parties was happened with consent and the complaint is filed by the complainant after some differences and therefore, 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. He has further submitted that, the applicant is falsely implicated in this case. Further, substantial

investigation is over. It is further submitted that, the applicant is resident at the address mentioned in cause title and is having responsibility 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 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 learned APP has also made his oral submission. He has, by reading the contentions of the affidavit filed by the I. O. vide Ex. 06, opposed the bail application of the applicant - accused. He has further submitted that, **the applicant accused has committed serious offense against the victim of the crime under the pretext of marriage and had developed friendship with her and committed offense as alleged and thus, there is prima facie evidence against the applicant.** At present, investigation is pending as well as other aspects are under consideration and if the applicant accused released on bail, he will cause hindrances in the fair investigation 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 through her advocate and has filed her affidavit of objection vide exh. 09 inter alia contending that, the accused has committed the alleged offense and if he be released on bail, than, he will threatened her and has prayed for rejection of the application.
5. I have carefully gone through the contentions raised by the

applicant as well as contentions raised by Id. APP and has gone through the police papers made available on record. It is imperative to note that, it is settled legal proposition that, while considering the bail application, the court is not required to do detail examination of the evidence. At this stage, it is imperative note that, the victim is elder than the accused. I have also gone through the nature in which the alleged offense is alleged to have been committed. Thus, considering the nature of accusations leveled against the applicant and manner in which the alleged offenses is committed, it appears that, the aspects of consent can not be ruled out. I have also considered the age of the victim and accused. Thus, looking to the nature of allegations, gravity of offenses, role attributed to the accused and considering the role alleged to be paid by the applicant as mentioned in FIR and without discussing the evidence in detail, at this stage and looking to the possibility of accused availability at the time of trial, this is an appropriate case to use discretionary power under section 439 of the Code and release the applicant on bail subject to certain strict conditions. This court has also considered the maximum punishment which can be imposed upon the accused, if proved guilty. Therefore, taking into consideration over all facts and circumstances as well as nature of offenses, manner in which the offense to have been committed, this court deems it fit to allow the present regular bail application subject to the stringent conditions. This court has taken into consideration the law laid down by the Hon'ble Apex Court in the case of

Sanjay Chandra vs. C.B.I. reported in (2012) 1 SCC 40 and thus, the present application deserves consideration and looking to the well settled principle that, Bail is a Rule and Jail is an Exception as well as considering overall facts and circumstances, there seems to have reasonable grounds to exercise discretionary power in favour of the present applicant. Hence, the present application deserves to be allowed, and therefore, in the interest of justice, following order is passed.

#### ORDER

1. This application No. 1625/2026, under the provisions of section 439 of the Code, of the applicant is hereby allowed.
2. The applicant is hereby ordered to be released on bail under the provisions of section 439 of The Code in connection with the offenses registered as C. R. No. 11210045253654/2025, registered with Pandesara Police Station, Surat for the commission of the offense punishable under the provisions of section 376 of The Indian Penal Code, 1860, upon his furnishing personal bond of Rs. 50,000/- (Rupees Fifty Thousand Only) with surety of the like amount to the satisfaction of The Id. Trial Court, subject to the following condition.

#### Conditions :

1. He shall not take undue advantage of his liberty or misuse his 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 Id. Trail court

within a week and if, he does not possess the same, than file an affidavit to that effect.

4. He shall not leave the Country without prior permission of The Id. Trial 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 his 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 The Id. Trial Court.

Bail bond to be executed before The Id. Trial Court having jurisdiction to try the case.

Necessary Yadi be sent to The Id. Trial Court and concerned jail authority and Police Station.

Order is passed and pronounced in Open Court on this 18th Day of March, 2026.

Date :- 18/03/2026

Hiteshkumar Mukundray Vyas

Place :- Surat

6th Addl. District & Sessions Judge, Surat.

Judge Code No. GJ00834