

Received on	04/03/2026		
Registered on	04/03/2026		
Decided on	13/03/2026		
Duration	DD	MM	YY

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

**CRI. MISC. APPLICATION No. 1702 of 2026
Exh. No**

Sr. No.	Name of The Applicant	Age	Occupation
	Divyeshbhai Nagjibhai Chauhan, Resident of, Harijanwas Agatariya village, Tal.- Mahuva, Dist.- Bhavnagar. At present, Central Jail, Lajpor, Surat	20 yrs	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 483 of The
BHARATIYA NAGARIK SURAKSHA SANHITA,
2023.

Appearance :-

Ld. Advocate for the applicant :- Mr. M. D. Solanki.
Ld. A. P. P. for the opponent :- Mr. R. P. Dobariya.

:- 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 offenses registered as C. R. No. 11210004260073/2026, registered with Amroli Police Station, Surat for the alleged commissions of the offenses punishable under Sections 137(2), 64(2)(I)(M) and 87 of the Bharatiya Nyaya Sanhita, 2023 (herein after referred to as "**The BNS**" in short) and under the provisions of sections 3, 4, 5(L), 6 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. 54/2026. It is submitted that, this is the first of the applicant before this court. He has submitted that, the applicant accused has been arrested in connection with the aforesaid offense on 17.01.2026 and has been kept in judicial custody since 18.01.2026. The case of the complainant against the accused is nothing but a concoction. Further, the complainant has filed complaint against unknown person 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. The applicant accused has not molested the victim and kidnapped her, even the applicant accused has not abducted by any enticement to the victim and victim has left her house voluntarily without informing anyone at house and therefore, the facts of the prosecution case is concocted. It is further submitted that, as per the FIR, it reveals that there was a love affair between the applicant accused. 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 address as mentioned in cause title and is having responsibility to maintain 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 trapped the victim with intention to marry her and had kidnaped her and taken her to his native Bhavnagar, thereafter, had sexual intercourse on the pretext of marriage and against the will of the victim and there also repeatedly had physical relations with the victim. 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. At present, recording of evidence of material witnesses are pending and thus, considering the nature of allegations leveled against the applicant, the present regular bail application of the applicant may be disallowed. Further, it is also stated that, mere filing of charge sheet cannot be considered as change in circumstances and therefore, if the accused is released on bail than chances of threatening to the victim and complainant can not be ruled out 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 have filed their 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. as well as written representation made by de facto complainant and victim and 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. It is imperative to note that, the accused is alleged to have committed the offense punishable under the provisions of The BNS and The Act as stated above. It is alleged that, the accused has committed offenses as aforesaid against the minor victim of crime under the gist that he would marry the victim and has kidnapped her and has made sexual relationship with victim and repeatedly committed the offense. The accused was also aware about the fact that, the victim is minor and therefore, has taken disadvantage of the situation. It is also stated that, inspite of the victim's refusal, the accused had repeatedly committed the offense.

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. It is alleged that, the accused has lured the victim and had sexual intercourse on the pretext of marriage and committed offenses as aforesaid against the minor victim of crime against her will and wish and it was repeatedly committed against her. 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 would strengthen 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 inclined to exercise its discretionary power in favour of the applicant and hence, in the interest of justice, following order is passed.

ORDER

The application filed by the applicant under the provisions of section 483 of The BNSS is hereby disallowed and rejected.

Order is passed and pronounced in Open Court on this 13th Day of March, 2026.

Date :- 13/03/2026

Place :- Surat

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

PHS