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

**CRI. MISC. APPLICATION No. 1818 of 2026
Exh. No**

Sr. No.	Name of The Applicant	Age	Occupation
	Ganesh Santoshkumar Gauda, Resident of, House No. 303, Jagannath Apartment, Near CNG Petrol Pump, Amroli, Surat. Originally at, Devbhumi, Thana- Aska, Dist. Ganjam (Orissa). At present, Central Jail, Lajpor, Surat	22 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. P. B. Patel.

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. 11210013260029/2026, registered with Ashwinikumar Police Station, Surat for the alleged commissions of the offense punishable under Sections 137(2), 87, 64(2)(M) of the Bharatiya Nyaya Sanhita, 2023 (herein after referred to as "**The BNS**" in short) and under the provisions of Sections 4(1), 5(L), 6, 8 & 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. It is submitted that, earlier the applicant accused has filed bail application before this court, which was rejected due to pendency of the investigation and now, the investigating officer has completed his investigation and has filed charge sheet against the applicant, which has been culminated into registration of POCSO Case no. 52 of 2026 and therefore, the present application is filed for the first time after filing of the charge sheet. The applicant has not filed any bail application before Hon'ble The High Court.

It is further submitted that, the applicant accused was arrested in connection with the aforesaid offense on 04/02/2026 and he has been kept in judicial custody since 05.02.2026. 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 therefore, the facts of the prosecution case is concocted. It is further submitted that, the victim has left her house voluntarily without informing anyone at house. Further submitted that the victim has left the house on 03/01/2026 and complaint is registered on 13/01/2026, therefore, there is delay of 10 days in filing the present complaint against the applicant - accused which has not been explained by the complainant. 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. He has further submitted that, the applicant is falsely implicated in this case. It is further submitted that, the applicant is resident of Surat as mentioned in cause title and is of very young age 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. Therefore, it is prayed that, the applicant may be enlarged on regular bail subject to the suitable conditions.

3. The ld. APP for the State has made his oral submissions by

reiterating the contentions raised in the affidavit filed by the IO vide exh. 5. 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 in a love affair with intention to marry her and thereafter, took her to the different places at Surat and had sexual intercourse on the pretext of marriage and thereafter, has kidnapped the victim and has taken to his native Place Orissa at Jagannath Puri and Bhadra Kasurali and also repeatedly had physical relations with the victim. It is also submitted that, during the course of investigation CCTV footages from the hotels call details have been recovered, which also supports the commission of offenses and thus, sufficient material have been found against him therefore, prima facie there appears strong case against applicant - accused. It is also submitted that, as per statement given by the victim before The Police, the accused had committed alleged offense against the victim. Further, it is also stated that, yet the material evidence is yet to be recorded and therefore, 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 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. 04 inter alia, objecting the grant of the present bail

application of the applicant.

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 considered the written representation of the de facto complainant and victim vide exh. 4. It is imperative to note that, the accused is alleged to have committed the offenses punishable under the provisions of The BNS and The Act as stated above. It is alleged that, the accused has committed offense as aforesaid against the minor victim of crime and the applicant accused has lured the victim and has raped her by taking her to different places and repeatedly committed the offenses and thereafter, has kidnapped the victim and taken her to his native Orissa and also repeatedly committed the said offenses. The accused was also aware about the fact that, the victim is minor and therefore, has taken disadvantage of the situation.

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 under the pretext of marriage and had taken her to different places and committed offense as aforesaid against the minor victim of crime against her 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 is not a change in circumstances but in the given facts and circumstances, it further 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 9th Day of April, 2026.

Date :- 09/04/2026

Place :- Surat

Hiteshkumar Mukundray Vyas

6th Addl. District & Sessions Judge, Surat.

Judge Code No. GJ00834