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| Received on | 11/03/2026 | | |
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| Decided on | 07/04/2026 | | |
| Duration | Day (s) | Month (s) | Year (s) |
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**IN THE COURT OF HON'BLE THE 6th
ADDITIONAL SESSIONS JUDGE, SURAT.**

**CRI. MISC. APPLICATION No. 1829 of 2026
Exh.**

| Sr. No. | Name of The Applicant | Age | Occupation |
|----------------|--|------------|-------------------|
| | Sunitaben W/o Swamisaran alias Manoj Badriprasad Tiwari, Resident of, Panch Factory, Bharwad Vas, Tarsadi, Kosamba, Taluka - Mangrol, District - Surat. Originally at - Basui Gam, Post - Devari, Thana - Padari, District - Mirzapur, Uttar Pradesh. At present, Lajpore Central Jail, Surat. | 47 Years | Household |
| 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 Surasksha Sanhita, 2003.

Appearance :-

Ld. advocate for the applicant

:- Mr. B. S. Patel.

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 offense registered as C. R. No. 11214021260185/2026, registered with Kosamba Police Station, Surat for the alleged commissions of the offense punishable under Sections 64(2)(F)(I)(M), 75(2), 88, 89, 94, 54, 115(2), 238(B) of the Bharatiya Nyaya Sanhita, 2023 (herein after referred to as "**The BNS**" in short) and under the provisions of Sections 4 and 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. The Id. advocate for the applicant has, after going through the contentions raised by the applicant accused in the application under the consideration, submitted that, **the applicant accused is the mother of the victim and the victim is major and she has already attained majority. It is further submitted by the Id. advocate for the applicant accused that, earlier the victim has left the house without intimating any member**

of the family and therefore, her husband had filed police complaint for the same. However, the Police authority could not find the victim and therefore, her husband has filed habeas corpus petition before Hon'ble The High Court of Gujarat being number as No. 267/2026. During the course of the hearing of the petition, the I.O. has found the victim and produced her before Hon'ble The High Court of Gujarat. It is further submitted by the Id. advocate for the accused that, her husband has, by mistake, stated the victim as minor. However the age of daughter is above 18 years of age. It is further submitted by the Id. advocate for the accused that, The Police Authority has, by mistake and without complete investigation, added the offenses under the POCSO Act. It is further submitted that, the applicant is innocent and has committed no offense and if, she 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 lady and residing at the mentioned in cause title and is having responsibility to maintain her family and she will not flee from the justice and she will abide by the terms & conditions, which may be imposed by this court as this court deems fit. The Id. advocate for the applicant accused has submitted that the applicant has not committed any offenses much less as alleged against her and therefore, prays to grant the application under the consideration.

3. The learned APP for the opponent has after referring and reiterating the contentions raised by the I.O. in his affidavit vide Exh. 4, 7 and 8 submitted that, **as per the ossification test performed by the Doctor upon the victim, the age of the victim is above 16 years and below 18 years. It is also submitted that, during the course of investigation, it also revealed that, the school, where the victim had studied, has issued a certificate stating the birth date of the victim as 06/08/2004. It is further submitted by the Id. APP for the opponent that, at present investigation is pending and thus, prima facie, the present applicant is appears to have committed serious offenses and therefore, prayed for rejection of application.**

It is further submitted by the Ld. APP for the state that, earlier also, the father of the victim has filed complaint regarding missing of the victim and thereafter, father of victim has also filed habeas corpus petition before Hon'ble The High Court of Gujarat being number 267/2026 and as per the direction of Hon'ble The High Court, the accused and victim, of that case, were found and the victim was produced before Hon'ble The High Court. It is further submitted by the Ld. APP that, during the course of proceeding before Hon'ble The High Court of Gujarat in the habeas corpus petition, the victim has stated that, the accused has forcefully done the miscarriage and has also made other allegations and therefore, Hon'ble The High Court of Gujarat has issued

directions in this respect and therefore, the present offenses came to be registered against the accused and others for the alleged commission of offenses as mentioned herein above. At present, the investigation in the case is pending and therefore, the applicant accused is released on bail than the applicant will cause hindrances in the fair investigation and therefore, the present regular bail application of the applicant may be disallowed.

4. The victim has also appeared before this court and has filed her written representation vide exh. 5 inter alia objecting the grant of the application of the applicant.
5. I have gone through the contentions of the application filed by the applicant, affidavit filed by the I.O. vide Exh. 4, 7 and 8 and submissions advanced by Id. Advocate for the applicant as well as Id. A.P.P. for the State and written representation filed by the victim vide exh. 5 and carefully gone through the police papers. On careful perusal of the same, it appears that, **there is no dispute regarding the fact that, earlier the father of the victim, who is accused no. 3 in the present case, has filed the complaint about the missing of her daughter i.e. the victim, wherein, the victim was stated to be minor. It is also imperative to note that, in that case, the I.O. has completed his investigation and has also filed charge-sheet against the accused of that case, which is registered as POCSO Case**

No. 39/2026. It is also imperative to note that, in that case, the parents of the victim have stated that, they were having twins daughters including the victim, who are having date of birth as 09.10.2009. The said offense alleged to have committed on 04.07.2025. During the investigation of that case, The father of the victim has also filed habeas Corpus Petition before Hon'ble The High Court, wherein, Hon'ble The High Court has passed direction and thereafter, the victim was traced out along with accused and sections for commission of offenses under the POCSO Act were added in that case and thereafter, charge sheet came to be filed as stated above. It is also imperative to note that, the victim, before Hon'ble The High Court, has stated certain facts in respect to the commission of offenses as mentioned in the present case and in pursuance to the said facts, the investigation was order and thereafter, after investigation, the present case has been registered against all the accused person.

Now, considering the facts of the present applicant, for the first time, the applicant claims that, the victim, her daughter, is major and has submitted the school record of her daughter. Thus, considering conduct of the applicant as well as fact that, on earlier occasion before Hon'ble The High Court as well as before The Police Authority, the present applicant and her husband claimed that, her daughter i.e. the victim's date of birth

is 09.10.2009 and now, the present applicant is stating completely different date. The present applicant being mother of the applicant can not be accepted to be unaware about the actual date of birth of her daughter i.e. the present victim. Thus, considering the nature of allegations in both the cases, where, the victim is the same person, it appears that, the present applicant along with her husband are, prima facie, appears to be making false statements before Hon'ble The High Court and the Law Enforcement Agencies to settled their personal score or to fulfill their desires.

Thus, considering the aforesaid conduct of the applicant and the fact that, the accused is alleged to have committed the offenses punishable under the provisions of The BNS and The Act as stated above against the minor victim of crime against her will and the fact that, her age as per medical evidence is minor and other aspects in respect to her age are under investigation, at this stage, no definite finding can be given regarding the date of the victim.

It is settled position of law that, while deciding bail application, two aspects in form of individual's liberty and social interest are required to be considered simultaneously. The object of bail is neither punitive nor preventive. The jurisdiction to grant or reject bail is to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in arbitrary manner. It is

also required to note that, at the time of deciding bail application, the Court is not required to appreciate and scrutinize the evidence in great detail, but the Court is required to see prima facie case or involvement and relevant factors like nature of offense, manner in which the offense has been committed, role or contribution and other authentic circumstances are required to be considered.

Upon perusal of the bail application, affidavit of the investigation officer along with case papers and upon hearing both the parties, it appears that the FIR has been registered for the offenses punishable under the provisions of The BNS and The Act as narrated herein above. Now upon going through the facts and Affidavit and papers produced on the desk of the Court, it appears that, the prima facie allegations has been made against the Applicant/ Accused. Further, upon perusal of the affidavit of Investigation Officer, it appears that the present offense appears to be serious in nature and prima facie involvement of the accused is found and at this stage, the investigation is pending in case and it is at crucial stage and therefore, if the applicant/accused is released on bail then it may cause hindrance in the fair investigation.

Thus, considering the role, seriousness of offense, nature of allegations, gravity of offenses and without discussing the evidence in detail and the fact that, the investigation is pending and it is at crucial stage and

therefore, at this stage, if the applicant/accused is released on bail then it may cause hindrance in the fair investigation. Hence, in view of the above discussions and in the interest of the 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 07th Day of April, 2026.

Date :- 07/04/2026

Hiteshkumar Mukundray Vyas

Place :- Surat

6th Addl. District & Sessions Judge, Surat.

Judge Code No. GJ00834

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