



**IN THE COURT OF 8TH ADDITIONAL SESSIONS JUDGE,
SURAT**

Cr.M.A.S. No. 2076 of 2026

Exh:- _____

Applicant/accused:-

Mohanbhai Hirjibhai

Age- 64 years, Occu.- Business,

Add.- A-303, Samrat Apartment,

Varachha, Surat.

Versus

Opponent :-

The State of Gujarat

Appearances :-

Ld. Advocate Mr. K. N. Dankhara for the Applicant.

Ld. APP Mr. S. K. Gohil for the Opponent-State.

~:: J U D G M E N T ::~

1. The is an application filed by the applicant/accused under Section 483 of the B.N.S.S., 2023 for being released on regular bail in connection with the offences registered at **Varachha** Police Station vide C.R. No. Part-A-11210060260599 of 2026 under Sections 115(2), 118(1), 117(2), 351(3), 352, 54, 61(2)(b), 189(2), 191(2),(3), 333

and 324 of B.N.S., 2023 and Section 135 of GP Act.

2. The notice was issued to the respondent State of Gujarat. The Ld. Public Prosecutor has appeared before the court. The investigating officer has submitted his affidavit against the present bail application vide Exh. 4. The de facto complainant submitted his affidavit vide Exh. 6 opposing bail application.

Submission on behalf of Applicant-accused.

3. Heard the Ld. Adv. for the accused-applicant. He contended that there is no prima facie evidence against accused to book him in this case. He further contended that the accused has been falsely implicated in this case and he is totally innocent. He further contended that the presence of accused would be easily available at the time of trial. He further contended that the accused-applicant is ready to comply any conditions that may be imposed by your Honour court. He contended that the injured has been discharged from the hospital. Hence, prayed for allowing the application.

Submission on behalf of State.

4. Heard the Ld. APP. She submitted that the offence is serious one and the role of the accused is there. Hence, the application should be rejected since the alleged offence is serious.

Position of law governing bail.

5. It has been observed by the Hon'ble Supreme Court in "Ram Govind Upadhyay v. Sudarshan Singh" reported in AIR 2002 SUPREME COURT 1475 in para-3 and 4 as

under;

“While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic consideration for grant of bail - More heinous is a crime, the greater is the chance of rejection of the bail, though, however dependent on the factual matrix of the matter. Some of the other relevant considerations are :-

(a) While granting bail the Court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the Court in the matter of grant of bail.

(c) While it is not accepted to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the Court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail”.

6. The Hon'ble Apex Court has observed in "Sanjay Chandra Vs. C.B.I" reported in AIR 2012 S.C page no-830 in para-14 of its judgment as under;

"In bail application, generally, it has been laid down from the

earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail". And Hon'ble Apex court has reaffirmed, reiterated and reinforced the principle that "grant of bail is rule and refusal to bail is an exception' in the said judgment".

7. The Hon'ble Supreme Court in "Dataram Singh vs. State of U.P" 2018 (3) SCC 22 has held in para-2, 4 and 6 as under;

2. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in Inhuman Conditions in 1382 Prisons, In re [Inhuman Conditions in 1382 Prisons, In re, (2017) 10 SCC 658 : (2018) 1 SCC (Cri) 90] .

6. However, we should not be understood to mean that bail should be granted in every case. The grant or refusal of bail is entirely within the discretion of the judge hearing the matter and though that discretion is unfettered, it must be exercised judiciously and in a humane manner and compassionately. Also, conditions for the grant of bail ought not to be so strict as to be incapable of compliance, thereby making the grant of bail

illusory.

Analysis.

8. Looking to the FIR it appears that it is alleged therein that on 12.03.2026 at around 17:00 when the de facto complainant was going to his shop, the daughter of Pareshbhai namely Arya was coughing at the door of the complainant so that he has stated to her that do so at your home. The Arya stated to the complainant that you must go to your office my father will come and will see you. The complainant come back to his home and was seated after dinner at that time accused Paresh, his father Mohanbhai, Deepakbhai and Chaganbhai came at the door of the complainant and co-accused Pareshbhai had stated that why have you scolded my daughter and made altercation with complainant who has stated to them make abusive language. Thereafter, the accused Pareshbhai has caused injury at the neck of the complainant by knife and accused Mohanbhai has caused injury at the head by iron pipe. The mother, brother and sister of the de facto complainant try to save him at that time accused Deepakbhai and Chaganbhai had caused injury to the mother of the complainant by stick at the head. Accused Pareshbhai has also caused knife injury to Atulbhai and Mr. Chaganbhai had caused injury by stick to the Atulbhai and accused Mohanbhai had also caused injury and accused Deepakbhai also caused injury by stick. The complainant party called the police at 112 number and police came there and taken the accused and complainant party to the

police Station and the complainant party sent for medical examination and an FIR came to be lodged. Thus there is prima facie case of causing injury by iron pipe by applicant herein. Under such circumstances, the discretionary power under Section-483 of the BNSS, 2023 may not be exercised in favour of the accused pending investigation.

9. In view of the aforesaid reasons and discussion, this court declines to grant this application so I hereby pass following order in the interest of justice.

∴ Order ∴

The application for bail filed by the present applicant-accused is hereby rejected.

Date : 27.03.2026
Place: Surat

[Amitkumar Narendrabhai Dave]
8th Additional Sessions Judge, Surat
UIC No.GJ00807.