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

**CRI. MISC. APPLICATION No. 3940 of 2026
Exh. No**

Sr. No.	Name of The Applicant	Age	Occupation
	Dipak S/o Rajendra Pagare, Resident of, Site Park, Varshanagar Bhimashankar Society, Mumbai. Permanent Add., Mundkheda, Tal.- Chalisgaon, Dist.- Jalgaon, Maharashtra. At present, Central Jail, Lajpor, Surat	21 yrs	House Keeping Work
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. C. B. Mahale
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, 2023 (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. 11210025260099/2026, registered with Limbayat Police Station, Surat for the alleged commissions of the offense punishable under sections 137(2), 87, 64(2)(I), 64(2)(M), of The Bharatiya Nyaya Sanhita, 2023 (herein after referred to as "**The BNS**" in short) and under the provisions of Sections 3(a), 4, 5(L), 6, 7, 8 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, this is the first bail application of the applicant - accused. It is further submitted that now, the investigation is over and charge sheet has already been filed, which has been registered as POCSO Case No. 134/2026. He has submitted that, the applicant accused was arrested in connection with the aforesaid offense on 29/03/2026 and after completion of remand period, he has been kept in judicial custody since 30/03/2026. The case of the complainant against the accused is nothing but a concoction. It is further submitted that, the accused and the victim are in relationship with each other.

Further, as per the case of the prosecution, at the time of alleged commission of offenses, the victim was 17 years and 09 months old, whereas, at present, she has already attained her majority and therefore, the aspects of the consent can not be ruled out completely. It is further submitted that, the applicant accused has not committed any criminal act as per the alleged offenses. 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 is of 17 years and 09 months and has left her house voluntarily without informing anyone at house. 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 resides at the address mentioned in the cause title with his family and is having responsibility of his family 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 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 in a love affair with intention to marry her and thereafter, had taken her to Mumbai and thereafter, taken her to Nepanagar, Madhya Pradesh and then to his native place and had kept her in a rented premises and had sexual intercourse against the will of the victim. Further, the accused 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. Further, it is also stated that, the evidence of material witnesses are yet to be recorded and mere filing of charge sheet cannot be considered as ground for releasing on bail 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 affidavits vide Exh. 5 & 6, inter alia, submitting that, they have no objection if the applicant - accused is released on bail.
5. I have gone through the contentions of the application filed by the applicant, affidavit filed by the I.O. vide Exh. 4 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. I have also considered the affidavit of the de facto complainant and victim vide exh. 5 and 6. I have carefully gone through the principle laid down by Hon'ble The Supreme Court in the matter between Sanjay Chandra V/s CBI, in Cri. appeal no. 2178 of 2011. I have also carefully gone through the police papers and contentions of the complaint. At present, investigation is over and charge sheet has been filed and thus, the custody of the applicant does not required for custodial interrogation. I have also considered the role alleged to be played by the applicant, who is alleged to have committed the offenses as alleged and maximum punishment, which is provided under the law. The applicant is judicial custody since 30/03/2026. I have carefully considered the manner in which the alleged offense is committed, role attributed played by this applicant and the age of the victim and the present accused. Further, the factum of delay is also appears.

It is settled principle of law that while deciding the bail application, the court is not required to evaluate the merits or evidence in details. It also appears that, there is no past criminal antecedents nor any previous incident regarding the same and looking to the same, the presence of applicant can be secured during the course of trial by imposing suitable conditions. Further, considering the role of the present applicant, it appears that, no further custodial

interrogation is required. Further, it is settled legal position that the accused should not be kept in custody as part of pre-trial conviction and bail is rule, whereas the jail is an exception. Thus, considering the principle of personal liberty as envisaged in the Provisions of Article 14 & 21 of the Constitution of India and the factual aspects of the case as well as nature of offense and allegations against the present applicant, this court is of the view that much time would pass in completion of the trial and if the applicant accused are kept in custody during this period then it would amount to pre-trial conviction, therefore, there seems to have reasonable grounds to exercise discretionary power in favour of the present applicant and therefore, in the interest of justice, the applicant - accused is required to be enlarged on bail by imposing the suitable conditions. Hence, in view of the above, this is a fit case to exercise discretion under Section 483 of The BNSS qua the present applicant to enlarge him on regular bail. Therefore, in the interest of justice following order is passed.

ORDER

1. This application No. 3940/2026, under the provisions of section 483 of the BNSS, of the applicant is hereby allowed.
2. The present applicant is hereby ordered to be released on bail under the provisions of Section 483 of The BNSS in connection with the offense registered as C. R. No.

11210025260099/2026, registered with Limbayat Police Station, Surat for the alleged commissions of the offense punishable under sections 137(2), 87, 64(2)(I), 64(2)(M), of The Bharatiya Nyaya Sanhita, 2023 and under the provisions of Sections 3(a), 4, 5(L), 6, 7, 8 of The Protection of Children from Sexual Offenses Act, 2012, upon his executing personal bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one surety of the like amount to the satisfaction of The Id. Trial Court having jurisdiction to try the offenses and subject to the following conditions that applicants shall;

CONDITIONS

1. He shall not take undue advantage of liberty or misuse liberty.
2. He shall not act in a manner injurious to the interest of the prosecution.
3. He shall surrender his passport, if any, to the Trial court within a week and if, he does possess the same, then file an affidavit to that effect.
4. He shall not leave the State of India without prior permission of this 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 three months.
7. He shall not enter into the areas where the victim resides or

study.

8. He shall furnish the present address of 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 this Court.
9. The Authorities will release the applicant only if he is not required in connection with any other offense for the time being.

Bail bond be furnished before the concerned Court having jurisdiction to try the offense.

Necessary Yadi be sent to the Id. trial court and concerned jail authority.

Order is passed and pronounced in Open Court on this 05th Day of June, 2026.

Date :- 05/06/2026

Place :- Surat

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

PHS