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

**CRI. MISC. APPLICATION No. 4136 of 2026
Exh.**

Sr. No.	Name of The Applicant	Age	Occupation
	Montu Harshadbhai Gandhi Residence at, House No. 44, Pratiksha Society, Navsari - 396445.	40 years	Business
V/s			
Sr. No.	Name of The Opponent	Age	Occupation
	Union of India Through Ld. Standing Counsel for the UOI/DRI Sessions Court, Surat.	-	-
	Shri Parbar Pratham Singh (Intelligence Officer) Room No.516, 5 th Floor, Fortune Square II, Above TBZ, Vapi, Daman Road, Chala, Vapi, Gujarat-396191.	-	-

Sub :- Application under the provisions of Section 483 of the
BHARATIYA NAGARIK SURAKSHA SANHITA,
2023.

Appearance :-

Ld. advocate for the applicant :- Shri R. J. Vyas.
Ld. Sp. A.P.P. for the opponent :- Mr. D. S. Prajapati.

:- Judgment :-

1. The present bail application has been preferred by the applicant to grant regular bail under the provisions of section 483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (herein after referred as "The BNSS" for short) in connection with the offenses registered with DRI File No. DRI/AZU/SRU/VSU/INV/01/2026 for the alleged commission of the offenses punishable under the provision of sections 135(1)(a), (b) and (c) of the Customs Act, 1962.
2. The learned advocate for the applicant has made his oral submissions. He has submitted that, the accused was arrested in respect to the aforesaid offense on 11/05/2026 and after completion of remand period, has been in judicial custody since 15.05.2026. It is further submitted that the applicant - accused was arrested on the basis of suspicious. The other two accused have not been arrested, who are also partners of the Firm and therefore, applicant accused was to save other accused. It is further submitted that, the applicant - accused was co-operating with the inquiry agency since the inception and therefore, nothing remains to be recovered or discovered from him. It is also submitted that, by going through the allegations against the accused, it appears that, all activity of manufacturing of Jewelry to the tune of 33 kg was being undertaken under the supervision of the other two accused, who are not arrested by the investigating officer. The applicant - accused is also having roots and resides permanently at Navsari and therefore, there is no chances of

the applicant - accused to flee from justice. It is also submitted by the Id. advocate for the applicant - accused that, the goods were already recovered and the case against the applicant accused is based on the documentary evidence, which are, at present, under the custody of the investigating agency and thus, there remains nothing to be recovered and discovered from the applicant - accused and therefore, the custody of the applicant - accused does not require and hence, there is no reason in keeping the applicant - accused behind the bar. It is also submitted by the Id. advocate for the applicant - accused that, the applicant - accused is not charged for the commission of serious offense, where the punishment is more than 10 years. It is also submitted by the Id. advocate for the applicant - accused that, trial would take time and if the applicant - accused is kept in judicial custody then it would amount to pretrial conviction and hence, prayed for the grant of the application under consideration. In support of his submission he has placed reliance on the judgment of Hon'ble The High Court of Gujarat, passed in Criminal Misc. Application No. 23055 of 2025.

3. The opponents have appeared before this Court and have filed their affidavit of objection vide Exh. 04. The Id. APP for the opponent has, by going through the affidavit of the opponent vide Exh. 04, submitted that, M/s Shree Naklang Jewellers has permission for the activity of manufacturing of Silver Jewellery studded with natural diamonds with an approved annual production capacity of 8.150 kg only. However, as per the data available, during the financial year 2025-26, the said Unit has made export of Silver Jewellery studded with natural diamonds aggregating more than 33 kg, which is significantly in excess of the

approved annual capacity of 8.150 kg, and, therefore, there appears prima facie case against the applicant. It is further submitted by the Id. APP of the opponent that, the opponent has facilitated in setting up and was operating M/s Shree Naklang Jewellers through notional partners. During the investigation, two mobile phones and a hard disk drive of the applicant were recovered from his possession. Further the applicant - accused has refused to provide the password/access to the said instruments. Further, the applicant - accused is the person controlling and managing all import and export operations of the firm and was also undertaking the other activities required for the business of the firm. It is further submitted by the Id. APP for the opponent that, the export goods declared at Rs. 134.23 crores were valued by Government approved valuer at only 4.93 crores. Further the total FOB value of goods already exported and goods meant for export in the live consignment detained by DRI is approximately Rs. 1154 crore. Therefore, the total amount of fraudulent transactions in this case amounts to more than 2300 crore. This is a structured and organized modus operandi involving misuse of SEZ provisions, fraudulent overvaluation of export consignment and handling of import through layered operational co-ordination. It is further submitted by the Id. APP for the opponent that, during the course of investigation the aforementioned facts have been already disclosed and the present case also involves misuse of SEZ framework and duty exemption scheme thereby, affecting public revenue and the integrity of the import export regulatory mechanism. It is also submitted by the Id. APP the applicant has previously also been found involved in fraudulent customs in the case of Caprice Commerce Pvt. Ltd., a unit in Gandhinagar, wherein, penalty of Rs. 50 lacs has been imposed on him. Thus, considering the fact revealed during the investigation so far, it shows the prima facie involvement of the applicant - accused in the commission of alleged crime. At present, the investigation is pending and other aspects are also under consideration and therefore, considering the seriousness of the allegations and gravity of offenses, the Id. APP for the opponent has prayed for the rejection of the bail application.

4. I have carefully gone through the oral submissions advanced by the Id. advocate for the applicant and Id. APP for the opponents, and has gone through the papers. On carefully

going through the factual aspects of the case along with submissions advanced by the parties respectively, at this stage, without going into the detail of evidence and considering the entire factual aspects of the case as aforesaid, it appears that, the accused is charged for commission of offenses punishable under the provisions of section 135(1)(a), (b) and (c) of the Customs Act, 1962. It is alleged by the prosecution that, the accused is involved in a structured and organized modus operandi involving misuse of SEZ provisions, fraudulent overvaluation of export consignment and handling of import through layered operational co-ordination. During the course of investigation, several materials were found, which are mentioned in para 2.3 to 2.8 of The Affidavit vide exh. 4 and therefore, the accused has committed the alleged offense also affecting the public revenue. Further, as per affidavit, during the course of investigation, sufficient material has been found against the accused. Further, considering the facts revealed during the course of investigation as mentioned in the affidavit vide exh. 04, it appears that, prima facie involvement of the applicant accused is found in alleged offenses and therefore, considering the nature of allegations, it appears that, prima facie, he is involved in commission of serious offenses as alleged.

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.

Thus, upon perusal of the bail application, affidavit of the investigation officer along with case papers and upon hearing both the parties, it appears that, prima facie case has been made out against the applicant and the present offenses appears to be serious in nature and prima facie involvement of the accused is found and the applicant accused is also having past criminal antecedent, where, he was involved in commission of similar kind of offense and at present, investigation is pending and therefore, if he be released on bail then it may cause hindrance in the fair investigation.

I have also gone through the judgment of Hon'ble The High Court of Gujarat passed in CrMA No. 23055 of 2025. However, considering the peculiar facts of the case on hand as well as of those cases, it appears that, the factual aspects of the case on hand is different from that case. The accused is also having past criminal antecedents and there is

prima facie case against him and therefore, this court is of the humble view that, considering the peculiar facts of the case, the aforesaid judgment can not be made applicable to the facts of the case on hand.

Thus, there is prima facie involvement of the applicant/accused and therefore, considering the nature of allegations, its seriousness, impact on public revenue and severity of sentence as well as role alleged to be played by the applicant along with the fact that, at present, investigation is pending, this court is of the view that, at this stage, no case is made out to exercise discretionary power in favour of the accused and 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 the Open Court on this 22nd Day of June, 2026.

Date :- 22/06/2026

Hiteshkumar Mukundray Vyas

Place :- Surat

I/c Addl. District & Sessions Judge, Surat.

Judge Code No. GJ00834