

IN THE COURT OF HON'BLE MS. DIPIKA K. MAGHNANI, ADDL. JUDICIAL
MAGISTARTE FIRST CLASS, BHAVNAGAR

Order below Bail application in Vartej Police Station CR No.
11198067260337 of 2026 IN CRMA/J-1103/2026

Complainant : State of Gujarat

Vs.

Accused/Applicant : Bhautikbhai @ Bhavdeep Mukeshbhai Unecha

Age : 20 years,

Resi. : Aadarshnagar, Faridka, Bhavnagar.

- (1) This is an application filed by the accused/applicant for seeking bail in connection with the offences punishable under Sections 65(A), 65(E), 116(B), 98(2) of the Gujarat Prohibition Act registered at Vartej Police Station C.R.11198067260337 of 2026.
- (2) Ld. Advocate Mr.V.B.Gohel for the accused/applicant submitted that the accused is innocent and falsely involved in the said offence. Hence prays to allow this bail application.
- (3) Heard Ld. A.P.P. He contended that there is very huge quantity of prohibited liquor involved in the said offence. Hence, prays to reject this application.
- (4) Looking to the FIR and material perused, it appears to the Court that prima facie case is made out against the accused. While deciding such application, it is important to see that an application for bail is well settled and an application should not be dismissed merely on the ground that prima facie case is made out against the accused. The other factors like seriousness of an offence committed, antecedents of accused, presence of accused at the time of trial, maximum

punishment that may be imposed to accused in charged offences, tempering with investigation and hampering with witnesses are to be considered. Furthermore, even when a prima facie case is made out against the accused; the accused shall not be detained as a punishment but also it is essential for the Court to measure whether the presence of the accused will be readily available during the trial or he is likely to be fled away during the trial. In view of the well settled bail jurisprudence prevailing in India settled by a catena of decisions of the Hon'ble Supreme Court of India and various Hon'ble High Courts of India that the power to grant bail is not to be exercised as if the punishment before trial is being imposed.

(5) However, it is also well settled that under the criminal laws of this country; a person accused of offences which are non-bailable offence, is liable to be detained in custody during pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article-21 of the Constitution of India, since the same is authorised by law. The charges leveled against the accused are with respect to non bailable offence. In view of Section-119 of Gujarat Prohibition Act wherein it is provided that the offences under section-65 is non-bailable offence.

(6) Further in this regard it is required to see para-4 of the Gujarat ordinance No.7 of 2016 which reads as under:

4. Amendment of Section 65 of Bom.XXV of 1949:- in the principal Act, in section-65,-

(i) in clause(e), for the words "sells or buys", the words "possesses, transports, sells or buys" shall be substituted;

(ii) for the protion beginning with the words "shall, on conviction" and ending with the words "also with fine",

the following portion and the proviso therunder shall be substituted, namely:-

" shall on conviction, be punished for each such offence with imprisonment for a term which may extend to ten years and with fine which may extend to five lakh rupees ".....

Provided that, in absence of special adequate reasons to the contrary to be mentioned in the judgment of the court-

For the first offence, such imprisonment shall not be less than two years and fine shall not be less than one lakh rupees;

For the Second offence, such imprisonment shall not be less than three years and fine shall not be less than two lakh rupees;

For the third offence, such imprisonment shall not be less than seven years and fine shall not be less than five lakh rupees;....

- (7) Before discussing rival contentions of this application, it is required to note here that at this stage this Court is deciding only bail application. As held by **Hon'ble Gujarat High Court reported in 2002(3) GLR page 2288** that while deciding bail application as far as possible the Court should keep itself away from discussing the material in detail and giving its verdict on merits.
- (8) Looking to the record of this case the alegation against the accused for the offence under section-65(A) as well as section-65(E) and read the Amended Act made by the Government of Gujarat, in the said offence imprisonment may extend to ten years and with fine which may extend to five lakh rupees.
- Further looking at the contentions raised by the Ld. Advocate it is the subject of trial and as discussed above in the

above mentioned judgement Hon'ble High Court held that while deciding bail application as far as possible the Court should keep itself away from discussing the material in detail and giving its verdict on merits. Further looking to the gravity of the offence and the facts of the case, the quantity and price of the liquor seized and looking to the record, this Court is of the view that if the accused is released on bail, it will be harmful in the act to stop social, economical and moral deterioration of society.

(9) Moreover it is important to note that looking to the FIR, it **prima facie** appears that the prohibitory muddamal of Rs.1,14,240/- has been recovered from the place of offence from the accused. Further it is pertinent to note that the offence alleaged is serious and affects public health and public order. Further the quantity seized is substantial.

(10) Under such circumstances and aforesaid reasons, the discretionary power may not be exercised in favour of the accused. In view of the aforesaid discussion, this Court is declined to grant this application for bail. So in view of the aforesaid reasons, this Court hereby passes the following order in the interest of justice.

:: ORDER ::

The application for bail filed by the accused/applicant **Bhautikbhai @ Bhavdeep Mukeshbhai Unecha**, is hereby **rejected**.

Pronounced in an open Court today on 16.05.2026.

Date :16/05/2026
Place:Bhavnagar

(Dipika Kishanchandra Maghnani)
Addl. JMFC, Bhavnagar.
GJ01447