

GJPM010023312025



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Registered On	09.06.2025		
Decided On	18.06.2025		
Duration	<u>YY</u>	<u>MM</u>	<u>DD</u>
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Exh.			

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IN THE COURT OF THE SESSIONS JUDGE,
PANCHMAHALS, AT GODHRA.

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Criminal Misc. Application No. 435/2025.

Applicant : Mehboob Ishaq Dant.
Age : 41 years.
Occu. : Business.
Address : At - Idgah Mohalla,
Nadipar, Gondra,
Ta. Godhra,
Dist. Panchmahals.

V E R S U S

Opponent : State of Gujarat,
Gandhinagar.

Application seeking regular bail U/sec. 483 of B.N.S.S.

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Appearance

Learned Advocate Mr. S.S. Charkha for the Applicant.
Learned Spl. P.P. Mr. J.A. Pathak for the Opponent.

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J U D G M E N T

1. The present bail application has been preferred by the applicant under section 483 of BNSS, as he has been arrested in connection with the offence registered before the Godhra Town 'B' Division Police Station, vide C.R. No. 11207002240556/2024 for the offence punishable under sections 5(1), 6(B), 8(2), 8(4), 10 of the Gujarat Animal Preservation Act, 2011 (Amendment Act, 2017), U/sec.325 of B.N.S., read with section 119 of the Gujarat Police Act.
2. The applicant/accused came to be arrested by the police in connection with the said offence on on 27.05.2025 and since then he is in judicial custody. The applicant had earlier preferred anticipatory bail application before this court, which came to be rejected. He had also preferred anticipatory bail application before the Hon'ble Gujarat High Court, but had subsequently withdrawn the same, as the Hon'ble High Court was not inclined to grant the same. Thereafter, he has again filed the present bail application on the ground of parity and prayed to be released on regular bail by imposing suitable terms and conditions.
3. The Ld. Advocate appearing on behalf of the applicant/accused, has argued mainly on the ground that the applicant has been falsely implicated into the offence, there is no *prima facie* case against him, he has no connection whatsoever with the muddamal seized by the

police. It is submitted that the applicant has no connection with the place from where the muddamal is alleged to have been seized by the police, even though he has been implicated into the offence on the basis of the statement of the co-accused. It is also submitted that the investigation is completed and charge-sheet has been filed in the matter against the co-accused, hence further custody of the applicant is no more required in the matter. It is also submitted that the co-accused in the matter has been enlarged on bail by the Hon'ble High Court, hence the applicant deserves to be released on bail on the ground of parity. It is further submitted by the L.A. that the applicant is a permanent resident within the jurisdiction of this Court, he has a family to look after. Moreover, the commencement and conclusion of trial shall take long time period and placing him behind the bars for such long time period would amount to pre-trial conviction, hence prayed to release him on bail by imposing suitable terms and conditions.

4. *Per contra*, the Ld. P.P. representing the State, has strongly objected to the granting of bail to the present accused. The Ld. P.P. has produced the protest affidavit filed by the Investigation Officer at Exh.4 and submitted that the applicant, in collusion with other co-accused, had procured cow-beef and were selling it for monetary gains. It is submitted that cow-beef in quantity of 618 kgs. worth Rs.1,23,600/-, alongwith slaughtering weapons and scale were seized from the house of the accused, which

reveals his involvement in the commission of offence. Moreover, if the applicant/accused is enlarged on bail, he would repeat such offence and subject cruelty upon innocent animals. Moreover, in the event of granting of bail, the possibility of the accused tampering with the evidence cannot be ruled out, hence urged to reject the bail application.

5. Heard the arguments advanced by the Ld. Advocates representing either sides, perused the record as well as protest affidavit filed by the Investigating Officer. It appears that, for the offence which is alleged to have take place on 22.10.2024, the applicant/accused came to be arrested only on 27.05.2025. It is worth noting that the applicant/accused was not arrested on the spot, his name has been disclosed by the co-accused during their custodial interrogation. It is also pertinent to note that the investigation is completed and charge-sheet has been filed in the matter against the co-accused, which is registered as Criminal Case No. 18/2025. It is also worth noting that the accused No. 1 & 3, who were apprehended by the police on the spot, have already been released on bail by the Hon'ble Gujarat High Court. Further, the accused No.4 has been granted bail by this court, whereas the accused No.6 has been granted anticipatory bail by the Hon'ble High Court and on the said basis, the Ld. Advocate for the applicant had sought for the principle of parity.

6. Insofar as the ground of parity is concerned, it would be fruitful to visit the judgment of the Hon'ble Gujarat High Court in the case of ***Rameshbhai Batubhai Dabhi Vs. State of Gujarat, 2011 (3) GLR 1999***, wherein the Hon'ble High Court has mandated as follows;

"All the above aspects along with order passed by the co-ordinate Bench in the case of two co-accused having similar role like the applicant on 05.08.2015 and 13.08.2010 in misc. Criminal Application Nos.8237 of 2010 and 9316 of 20105 Cri. Misc. Application No. 438/2024 were brought to the notice of the learned Sessions Judge by which the co-accused were granted anticipatory and regular bail. In spite of the above factual scenario, Learned Sessions Judge has refused to exercise the power under Sec. 439 of the code on the ground that the applicant was not traceable while nothing has not been on record that under what circumstances the applicant was not available or any effort was not made the investigating agency to trace him out. Though two orders granting bail to co-accused passed by the High Court were brought to the notice of the Learned Sessions Judge. It is held that ground of parity can be claimed by judge is not only illegal but contrary to settled practice of considering the circumstances almost similar or identical, when superior Courts exercise the powers either under Sections 438 and

439 of the Code, the subordinate Courts are in existence and unless there being any extraordinary circumstances or striking dissimilarities exist to deviate from the law of parity, the Courts below should consider the same in accordance with law."

In the case on hand, considering the fact that the co-accused who have been attributed with identical role play have been granted bail by the court, in view of the above settled ratio laid down by the Hon'ble High Court, the principle of parity is applicable to the case on hand.

7. Thus, in view of the above factual aspects, this Court is of the considered view that this is a fit case to exercise discretion in favour of the applicant/accused and enlarge him on bail and accordingly, the following order is passed :

ORDER

1. The present bail application filed under section 483 of B.N.S.S., is hereby allowed.
2. The applicant/accused, Mehboob Ishaq Dant, is hereby ordered to be released on bail in connection with the offence registered with Godhra Town 'B' Division Police Station, vide C.R. No. 11207002240556/2024, on furnishing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) and surety of the like amount, subject to the conditions that the applicant;

1. shall not hamper the investigation in any manner nor shall directly or indirectly make any inducement, threat or promise to any witness so as to dissuade them from disclosing such facts to the court or to any police officer.
2. shall not indulge in such type of offence in the future and shall cooperate with the investigation and make himself available for interrogation as well as during the trial proceedings.
3. shall furnish mobile number and residential address before the Court at the time of execution of the bond and shall not change the contact number along with address without prior permission of this Court;
4. shall not leave the State of Gujarat without prior permission of this Court and if holding a passport, shall surrender the passport before this court and if not having passport, then shall submit an affidavit in this regard.
5. shall mark presence before the concerned police station on the 1st & 15th of each calendar month, between 11-00 hrs. to 14-00 hrs., till filing of the charge-sheet or for a period of six months, whichever is later.

3. Breach of any of the above condition shall automatically lead to cancellation of the bail.
4. Bail Bond to be executed before the Ld. Trial Court.
5. Copy of this order be sent to all concerned.

Pronounced in the open Court today,
on this 18th day of June, 2025.

(Chandrapalsingh K. Chauhan)

Sessions Judge,

Panchmahals, at Godhra.

[UID Code No. GJ-00513]

Dt.18.06.2025

G O D H R A.

Shyam Shankaran