



सत्यमेव जयते

**BEFORE THE SPECIAL POCSO & 8th ADDITIONAL SESSIONS
JUDGE, SURAT.**

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Criminal Misc. Application No.4835 of 2026.

Exh.07.

Applicant :

Suraj Mahesh Kushwah

Age:26, Occupation:Auto Driver,

Residing at:House No. 809, Ambika Nagar,

Chhaprabhatha, Amroli, Surat.

Presently in judicial custody.

Versus

Opponent : The State of Gujarat.

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APPEARANCE:

Ld. Adv. for the Applicant : Mr. P. S. Patil.

Ld. A. P. P. for the Opponent - State : Ms. V. C. Panchal.

Ld. Adv. for the complainant : Mr. N. R. Chauhan.

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Subject:- Regular bail application U/S.483 of The
Bharatiya Nagarik Suraksha Sanhita, 2023.

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

1. The present application is preferred by the applicant/accused U/S.483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 and for releasing him on regular bail.
2. The factual matrix of the present application are such that;
 - i. The applicant/accused is alleged for the offences punishable U/Ss.137(2), 64(m) of BNS, 2023 and Ss.4, 6,

8 of POCSO Act, registered with Chowk Bazar Police Station Part-A Crime Register No.11210012251443/2025 and for the said offences present applicant/accused was arrested on 13.05.2026 and since then he is in judicial custody. Therefore, he has preferred present bail application to enlarge him on regular bail. The de facto complainant has submitted Pursis Exh.6 has no objections, if the present applicant-accused has been enlarged on bail.

3. Ld. Adv. for the applicant/accused has advanced his oral arguments and submitted that the present applicant-accused is innocent, he has not committed the alleged offence, though he has been falsely implicated in this offence. Ld. Adv. for the applicant-accused has contended that the incident took place on 31.10.2025, where as the afterthought complaint has been lodged on 06.11.2025 by the complainant against the accused but there is no sufficient reasons to explain the delay. As per FIR, the applicant-accused had kidnapped the victim from her lawful guardianship and had done sexual intercourse with her and thereby, committed the alleged offence. The age of the victim is 17 years 05 months 04 days. The complainant has lodged the FIR but, no name and role of the present applicant-accused is mentioned in the F.I.R. No incriminating muddamal has been recovered or discovered from the conscious possession of the present applicant-accused, though he has been falsely implicated in this offence only on the basis of suspicion. The investigation has been done and charge-sheet has already been submitted vide POCSO Case No.184/2026, hence there is no question of tempering or hampering with the case of the prosecution.

That the present applicant-accused is the only bread-winner of his family and if he has been kept behind the bar, his family has to suffer starvation. It will take long time to conclude the trial of the case, he is local resident of Surat District, having movable and immovable property, so, he will not flee away from the process of law and he will abide by all the conditions that may be imposed by the Court. Moreover, there is no punishment of life imprisonment or death penalty prescribed for the alleged offences. Therefore, considering the above stated facts, on any suitable conditions the applicant-accused may be enlarged on regular bail.

4. Per Contra Ld. A. P. P. appeared on behalf of the State has strongly opposed the present bail application and further submitted that the applicant-accused had kidnapped the victim from her lawful guardianship and had done sexual intercourse with her and thereby, committed the alleged offence. The age of the victim is 17 years 05 months 04 days, as he has well aware about that victim is a minor girl. Ld. A.P.P. has further contended that, if the present applicant-accused has been enlarged on bail, there is strong possibility of fleeing away from the process of law, and possibility of tempering with the prosecution witnesses cannot be ruled out, so considering the nature and gravity of the offence, in the larger interest of the society discretion may not be exercised.
5. The de facto complainant along with victim have submitted Pursis Exh.6 has no objections, if the present applicant-accused has been enlarged on bail.
6. Having considered the contents of the present application

and perused the entire materials available on record and having heard the Ld. Advocates appeared on behalf of the respective parties, it appears that the present applicant has moved the application under the provision of S.483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 for releasing him on regular bail in connection with the offence being registered with Chowk Bazar Police Station Part-A Crime Register No.11210012251443/2025 for the offences punishable U/Ss.137(2), 64(m) of BNS, 2023 and Ss.4, 6, 8 of POCSO Act. Moreover, considering the facts mentioned in the application as well as affidavit filed by the Investigating Officer, from which it transpires that the applicant-accused had kidnapped the victim from her lawful guardianship and had done sexual intercourse with her and thereby, committed the alleged offence. The age of the victim is **17 years 05 months 04 days**, as he has well aware about that victim is a minor girl. The de facto complainant and victim have submitted Pursis Exh.6 has no objections, if the present applicant-accused has been enlarged on bail. It is stated in the affidavit of the Investigating Officer that there is no bad antecedent of accused. It is well settled that 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, the accused is entitled to an order of bail. The accused has been in judicial custody since his arrest on 13.05.2026. The charge-sheet has already been filed by I.O. vide POCSO Case No.184/2026. Considered the possibility raised by Ld. A. P. P. during oral arguments regarding non-availability of the accused during the trial of the case, however, for securing the presence of the applicant-

accused, the applicant-accused can be enlarged on regular bail upon imposing some stringent conditions. Hence, considering the age of victim and nature and gravity of the offence and in view of the facts and circumstances stated herein above, this is a fit case to exercise judicial discretion vested U/S.483 of the Bharatiya Nagarik Suraksha Sanhita in favour of the applicant/ accused. Therefore, following order is passed in the interest of larger justice.

: O R D E R :

- (1) The Present bail application No.**4835/2026** filed by applicant-accused **Suraj Mahesh Kushwah** U/S.483 of The Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Chowk Bazar Police Station Part-A Crime Register No.11210012251443/2025 for the offences punishable U/Ss.137(2), 64(m) of BNS, 2023 and Ss.4, 6, 8 of POCSO ACT, is hereby **allowed**.
- (2) The applicant-accused is hereby ordered to be released on bail upon furnishing surety of Rs.25,000/-(Rupees Twenty Five Thousand only) and personal bond of like amount on the following terms and conditions:-
 - i. The applicant is directed not to involved such type of offences, and should not influence in any way to the witnesses in this case.
 - ii. The applicant shall submit self-attested copy of his passport in the Trial Court within 7 days from the date of this order. If he does not possess passport, then file affidavit to that effect;
 - iii. The applicant shall furnish his mobile number and permanent residential address with authenticated proof 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 Trial Court;

iv. The applicant shall not take undue advantage of the liberty or abuse his liberty;

v. The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

In case of breach of any of the above conditions the bail stands automatically canceled.

(3) Necessary yadi of this order be sent to the concerned Court and police station.

Pronounced and signed, today, on this 04th Day of July, 2026.

Dt.04/07/2026 (Harshad Shamrao Khutwad)
Place : Surat Special Court(POCSO) & 8th Additional Sessions Judge,
Surat - GJ 00724.