



GJBH010009372026

IN THE COURT OF 2nd ADDITIONAL DISTRICT & SESSIONS
JUDGE, AT BHARUCH



Criminal Misc. Application No. 299/2026

Exh. _____

Applicants:

1. Saiyad Ismail Motaji @ Baseer Bapu

Age: 52, Occu: Farmer,
R/o: 2-28, Babu Shethni Khadki,
Kervada,
Taluka: Amod, Dist: Bharuch.

2. Saiyad Sarfaraj Abbas

Age: 46, Occu: Farmer,
R/o: 5-10, Saiyad Vaadi,
Kervada,
Taluka: Amod, Dist: Bharuch.

3. Saiyad Ali Motaji

Age: 65, Occu: Farmer,
R/o: 5, Naani Saiyad Vaadi,

Kervada,
Taluka: Amod, Dist: Bharuch.

(At present all accused are in **District Jail- Bharuch.**)

V/S

Opponent :

State of Gujarat

Subject: Application under Section 483 of BNSS for Regular bail

ORAL ORDER.

(1) This application is filed by the applicant u.S. 483 of The Bhartiya Nagarik Suraksha Sanhita, in connection with the F.I.R. being registered vide C.R.No. 11199003260292/2026 at Amod Police Station for the offence u.S. 126(2), 308(5)(6), 352, 351(3) & 61(2)(A) , 329(3), 336(2)(3), 338, 340(2)) of BNS.

(2) The facts of the present case as per record is that...

On 30/03/2026 at about 07:00 O'clock in morning the accused named at Serial No. 2 to 4 in the FIR went to the complainant's agricultural land at Kervada (કેરવડા) village, where they abused the complainant's security persons by using nasty language and bad words regarding their mother and sister and rushed to beat them with sticks, threats were given to cause their death and by intimidating them forcibly took away fifty

chairs with dishonest intention and at the behest of Sunilsinh, the accused abused the complainant and his sister Bharatikunvarba(ବୀରତୀକୂଞ୍ଜବରା) and spoke bad words regarding his mother-sister and threatened to cause their death and also threatened to send them to jail through Court by falsely accusing the complainant in a crime of someone's murder or attempt to murder, the accused also told the complainant not to enter the land and demand of Rs. 40,00,000/- was made by the complainant , if he wants to enter the land and on 10/04/2026 the accused Saiyad Ismail Motaji @ Baseer Bapu and the accused Siraj Hasan Rana @ Sunilsinh Vijaysinh Rana both called the complainant from their respective mobile numbers and demanded Rs. 40,00,000/-, thus, by hatching criminal conspiracy the accused prevented the complainant from entering his land, hence, present complaint.

(3) Learned APP and the learned Advocate for the applicant/accused had appeared as intimated to them in the notice served through this Court. This Court has heard both the side and considered the papers.

(4) Submission on behalf of applicant

The Ld. advocate had relied on his application, apart from the application he has mainly submitted that the offence registered against the applicants are of maximum 10 years imprisonment, all the offences are triable by the Ld. Magistrate Court. Referring the Column No. 3 of the FIR, it is submitted that the FIR is delayed by 11 days, it is submitted that accused no. 1 Siraj Hasan

Rana @ Sunilsinh Vijaysinh Rana is not yet arrested, the said accused no. 1 is the step-brother of the complainant. It is submitted that as per the FIR the complainant got the said property through will (पश्चिमात्मज्ञा) and the disputed property is of Survey No. 245, it is also submitted that the complainant is at Dubai since 2007 and according to the complaint, he at regular interval is coming to Amod and doing agriculture, it is submitted that nothing has been narrated in the FIR that when security was put at the land. It is further submitted that as per the FIR there are three episode, it is submitted that the police was not informed regarding the incident shown in the FIR dated 30/03/2026. It is submitted that when threat was given to the security persons for causing their death, no information was given to the police as it is a fabricated and concocted FIR. It is submitted that though it is stated that fifty chairs were forcibly taken away with dishonest intention but i.e., got up, in fact the main dispute is regarding the agricultural land. The Ld. advocate by referring the document attached with the application has submitted that in the present case the complainant himself is a trespasser as the accused are in possession of the said land since last thirteen years. It is also submitted that after the incident the complainant had not gone to the police station but had approached his relatives. It is submitted that the accused also had given an application in the police through third person to whom the land was sold, as the accused were not the owner of the land and it was sold to the third person and hence the application was given to the police through the said third person. It is further submitted that the contents of the FIR indicates that the ingredients of Section 308 of BNS are incorporated intentionally and it is not possible that a person of

seventy years can give such FIR incorporating the ingredients of the said offence and thus it can be believed that the FIR is a scripted one.

(4.1) It is further submitted that the offence alleged is committed from 3 to 10 date, and thereafter, the complaint was given. It is also submitted that as per the allegations Rs. 40,00,000/- were demanded by accused no.1 and other accused had not demanded the said amount. Referring the document it is submitted that the accused no. 1 is the step-brother of complainant and he was not having any title of the property mentioned in the FIR and as per the FIR, one brother is telling another brother that the issue can be settled if Rs. 40,00,000/- are given, it is submitted that the accused are ready to co-operate the investigation, the accused has also given application before the police, the accused no. 2 & 3 were the witnesses and they are also joined as accused. It is submitted that all the accused are resident of the address mentioned in the application, no. 3 is the senior citizen, they are farmers. Referring the order of Ld. Magistrate Court it is submitted that the main reasons given for dismissing the bail application are pertaining to tempering with the evidence, presence during the trial and the seriousness of offence. It is submitted that the alleged offence is a dispute between the brothers, relatives and it does not affect the society. It is submitted that the accused became the owner of the said property through the registered sale-deed dated 11/01/2013 i.e., prior to thirteen years. Referring the sale-deed at Mark 3/6 it is submitted that the sale-deed is of the disputed property i.e., Survey No. 245, the sale-deed was executed by the aunt(𑂔𑂗𑂢𑂰) of the

complainant, entire amount was given and since then the accused are in possession of the said land, accused no. 2 is the witness in the sale-deed. Further by referring Mark 3/7 it is submitted that the applicant no. 1 had sold the land to third person i.e., Mr. Vali Ibrahim Bandukiya and other-2, sale-deed was executed on 12/08/2013 and the applicant no. 1 had received the amount, it is submitted that though the land was sold to Mr. Vali Ibrahim Bandukiya +2, but the said third party has given the said land to the applicant no. 1 for cultivation and the applicant no. 1 was cultivating the same, but the complainant's goal is to take over the land without due process of law. It is further submitted that the complainant had also filed an application before the Collector as per the provisions of Land Grabbing Act, but the same was filed(દફતર) by the Collector. It is submitted that dispute regarding the will(વસિયતનામું) is going on between the aunt(ફોઈ) i.e., Indrakunvarbaa Mansinh and her nephew i.e., the present complainant and the aunt Indrakunvarbaa Mansinh has filed application in the Hon'ble Gujarat High Court vide SCA wherein the order of Collector was restored by the Hon'ble High Court vide order dated 18/04/2023 against which third person (Mr. Vali Ibrahim Bandukiya) had filed LPA which had arisen out of mutation proceedings, the said LPA was dismissed by the Hon'ble High Court holding same to be devoid on merits. It is also submitted that the accused had filed Civil Suit before the Ld. Civil Court at Amod for declaration of permanent injunction, wherein the defendant filed an application as per Order 7 Rule 11 and the plaint of the plaintiff(accused) was rejected, against which no appeal is filed. It is submitted that against the order passed in LPA the proceedings before the Hon'ble Supreme

Court are started, but no registration number is yet given, though the time limit of thirty days has expired. It is submitted that the other side had informed to settle the matter, hence, no proceedings were filed within time limit and immediately after the time of limitation was over, after three days the present complaint was filed. It is lastly submitted that the sell by the accused to third person i.e., Mr. Vali Ibrahim Bandukiya was legal as, at the time of sell the name of the aunt(𑂔𑂗𑂢𑂰𑂱𑂲𑂳𑂴𑂵)-Indrakunvarbaa Mansinh was in revenue record, it may be voidable by the order of the Hon'ble High Court and thus the entry in the revenue record, based on the sell-deed with third person is also valid, lastly, it is submitted that whatever conditions be imposed by this Court will be complied by the accused persons, they are permanent resident of the address mentioned in the application, will co-operate during the investigation, hence, it is prayed to allow the application. In support of his application the Ld. advocate of the applicant has relied on the following authorities.

- 1) Jai Prakash Singh Vs. State of Bihar & Anr. Etc.
2012 AIR Supreme Court 1676.
- 2) Devangana Kalita Vs. State of NCT Delhi.
LAWS(DLH)-2020-9-16.
- 3) Shashi Goil & Anr. Vs. State Govt. Of NCT of Delhi & Anr.
2016(2) Criminal Court Cases 0313
- 4) Akshay Hirabhai Bharwad Vs. State of Gujarat.
2017(0) AIJEL-HC 237393

- 5) Kalpesh Chandrakant Shah Vs. State of Gujarat.
2018(0) AIJEL-HC 240104.
- 6) Arun Chawla Vs. State of U.P. & Anr.
2010(2) Criminal Court Cases 0886.
- 7) Shally Mahant @ Sandeep Vs. State of Punjab.
LAWS(SC)-2026-2-93.
- 8) Nikulbhai Chotabhai Patel Vs. State of Gujarat.
R/Criminal Misc. Application (for Anticipatory Bail) No.
1084 of 2026.
- 9) Santoshkumar Vs. State of Bihar.
Criminal Appeal No. of 2026 (arising out of SLP (Crl)
No. 19444 of 2025).
Supreme Court of India- Division Bench.
- 10) Sanjay Chandra Vs. Central Bureau of Investigation
2011 AIR SCW 6836(from Delhi)
Criminal Appeal No. 2178 of 2011.
- 11) Prabhakar Tewari Vs. State of U.P. & Anr.
2020(1) Criminal Court Cases 0722: 2020(1) Apex Court J
0211.
- 12) Shankar Parwani Vs. State of Haryana.
2020(2) LawDigital.IN 0527 : 2020(1) Law Herald-
Punjab 0461.

**(5) Submission on behalf of the Ld. Advocate of the
complainant as well as the Ld. APP**

The submission on behalf of the prosecution/ complainant are based on the affidavit of investigation officer and the written

objection submitted in the Court, it is mainly submitted that the complainant got the possession of the land stated in the FIR on the basis of the execution proceedings of the Court. It is submitted that as all the doors were closed in Civil Court the accused have adopted this illegal act to take the possession of the said land which is possessed by the complainant on the basis of the execution proceedings which were conducted in the presence of the two panch witnesses and the court authorities. It is further submitted that the execution proceedings are till now not challenged, the accused were never in the possession of the said land, material facts are suppressed, even the tax of the said land is paid by the complainant. The Ld. APP has also submitted that there is allegation of forging false document which is having imprisonment of life and the said offence is not triable by the Ld. Magistrate Court. It is also submitted that all the applicants are high-handed person, in past they were involved in the offence like murder, it is also submitted that the complainant is a businessman, used to conduct his business in Dubai, periodically he is visiting Amod village for agricultural purpose, it is submitted that all the alleged incident are being recorded, phone call and videography is there which were collected during the investigation, the investigating papers are referred by the Ld. APP, referring the statement of witnesses, it is submitted that the impression of all the accused in the village is of high-handed persons, the have also took the land of the other village persons by adopting illegal acts but due to their high-handed image nobody is daring to file complaint against them. The present complainant has come forward and had filed the complaint and other witnesses who were also victims of the present accused

now had come forward and had given their statement before the police and considering the image, behaviour and the conduct of the present accused it cannot be denied that, if being released on bail they may temper with the evidence and commit such type of offence, as in past also they were involved in a serious offence . The statement of witness Maqboolsaheb Pyarasaheb Rana has also been referred and referring the said statement it is submitted that in the village, the above accused had created atmosphere of terror, referring the statement of witnesses it is stated that by adopting the same modus-operandi the accused are grabbing the land of different persons in the village, it is submitted that, the statement recorded are of independent witness who are also the victim of the said accused persons. It is also pointed out from the record that the aunt of the complainant- Indrakunvarbaa, during her statement had stated that she has handed over the possession to the complainant as per the order passed in the execution proceedings by the Court, she has also narrated that, the accused persons used to take her signature, for what purpose the accused had obtained her signature is unknown to her and the accused have misused the signature of her. The statement of witness Pravinbhai Sakarlal Kothari is also referred, Baseerbhai Ismailsha Diwan's statement is also read over. It is further submitted that the ownership of the land is of the complainant who got the possession by legal procedure, by the order of the Civil Court in execution proceedings. It is submitted that the details of phone-calls are also collected by which it appears that phone-calls were done to the complainant by the accused. It is further submitted that accused no. 1 in the FIR, is still absconding and lastly, it is submitted that still the investigation is

going on, the investigation is at crucial stage, if at this stage the bail application is allowed then definitely the witnesses will be win over by the accused and they may temper with the evidence, their illegal activities may continue which may send wrong message in the society, hence, it is prayed to dismiss the application.

Further Submission on behalf of accused...

(6) Against the submission of the Ld. Advocate for prosecution it is submitted that the Ld. APP has referred the statement of witnesses but nothing is on record that the said witness have approached the police or had filed any proceedings, if the accused have grabbed their land. It is submitted that investigation is still going on, their application before the police is also pending, this is not a stage of proving the evidence, the accused are ready to co-operate with the investigation, the complainant is only having goal to keep the accused behind the bar, the statement of witnesses have no relevancy, mere words of the witnesses are not enough, no suppression of any fact is there on behalf of the accused, the complainant was also aware regarding sale-deed executed in the year 2013 and hence, there is no question of any forgery. It is further submitted that the prosecution has alleged that the accused were involved in an offence u/S. 302 of the Indian Penal Code, but according to the Ld. Advocate the accused were never convicted for such offence. It is submitted that if Indrakunvarbaa at this stage has given statement that her signature was misused then it can be said thatm she had cheated with the present applicant/accused. Hence,

it is submitted not to consider the statement of the witness referred by the Ld. PP and to allow the application.

Conclusion:

(7) This Court has heard both the side, considered the investigating papers, affidavits filed by the respective parties and also the authorities produced by both the sides.

(8) At this stage, it is not necessary to go into the correctness or otherwise of the allegations made against the applicant/accused. This is a matter, that will of-course be dealt with during the trial, but, while dealing such application the basic principles for deciding the bail application are required to be considered.

(8.1) In the case of **Prasanta Kumar Sarkar V. Ashsis Chatterji** , CRIMINAL APPEAL NO. 2086 OF 2010 (Arising out of S.L.P. (Crl.) No.4590 of 2010) the principal to be considered at the time of deciding bail application are stated, which are as below....

- (i) **whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;**
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) **danger of the accused absconding or fleeing, if released on bail;**
- (v) **character, behaviour, means, position and standing of the accused;**

- (vi) likelihood of the offence being repeated;
- (vii) **reasonable apprehension of the witnesses being influenced; and**
- (viii) danger, of course, of justice being thwarted by grant of bail.”

(9) This Court has considered the above principles and considering the submissions, facts of the case, the affidavits produced and the papers on record, the observations of this Court are discussed below.

(10) What appears from the entire record and submission of both the parties is that, the issue regarding the mutation entry had went up to the Hon’ble High Court, the Letter Patent Appeal (LPA) No. 690/2024 filed against the present complainant by third party i.e., Mr.. Vali Ibrahim Bandukiya was dismissed by the Hon’ble High Court on 16/07/2024 and since then the order of Hon’ble High Court remains unchallenged, no proceedings appears to have been initiated against the said order from the Court.

(10.1) Even the Civil Suit No. 65/2024 filed in the Ld. Trial Court at Amod by the third party and the applicant/accused Saiyad Ismail Motaji @ Baseer Bapu against the complainant and Indrakunvarbaa is now ended, as the application is filed as per Order 7 Rule 11 by the present complainant- Mayurdhvajsinh Vijaysinh Rana was allowed by passing order on 07/03/2026 and as per the record the said order is also unchallenged and it is

undisputed fact, which is admitted by the Ld. Advocate of the applicants.

(10.2) It is to be noted that, this Court has not to decide possession, title or the ownership of the land in the dispute and what is required to be considered while deciding a bail application, is prima-facie case against the accused persons along with the other principles.

(11) On perusal of papers, it appears from the record particularly the copy of the order passed by the 5th Additional Senior Civil Judge- Bharuch on 16/05/2008 in execution petition no. 03 of 2008 is that, the complainant got the possession of the said land as per the said order. What appears from the submission and the record is that the accused/applicants are aware of the order passed in LPA No. 690 of 2024 and in Civil Suit No. 65 of 2024.

(12) It appears from the investigation carried till now that, the accused are neither having any title, ownership nor any possession of the land on the date of the incident moreover the applicants are also aware of the orders passed against them but in-spite of that all the applicants/accused by hatching criminal conspiracy have prevented the complainant from entering into the land stated in the FIR and had demanded Rs. 40,00,000/-, they went to the agricultural land and had abused the security of the complainant, nasty language was used and threats were given to falsely roped the complainant and his sister- Indrakunvarbaa in serious crime like murder, the accused forcibly took away fifty

chairs with a dishonest intention. The pen-drive containing phone-call conversation and the recording of the videography done is also produced during investigation which contains twelve audio files, the statements of eye-witnesses are also recorded which includes the statement of Bharatikunvarbaa daughter of Vijaysinh Rana, the statement of security persons present at the time of the incident i.e. Ibrahim Pratapsinh Rana who is having security agency in the name of Ribon Security Service and the other staff of security present at the site, their statements are also recorded.

Modus operendi to get the land of other village people, transferred in their name

(13) Apart from the statement recorded of the above eye-witnesses during investigation the statement of independent witnesses are also recorded where in witness Lakshmiben daughter of Abhesang Raysang, Champaben daughter of Abhesang Raysang are also recorded wherein the above independent witnesses had stated that.....

“ આ ઉપરોક્ત જણાવેલ અને તેના બીજા ભાઈઓએ અગાઉ ના વષે માખુન કરેલુ છે જેથી કેરવાડા ગામમા તેની સામે કોઈ બોલતુ નથી તમામ લોકો તેમનાથી ડરે છે. અને જેથી આ લોકો કોઈપણ ચોખ્ખી જમીનો ઉપર કઈને કઈ વાંધા વચકા ઊભા કરી ગેરકાયદેસર રીતે ભુસી જાય છે અને મુળ માલીકને ખેતી કરતા અટકાવે છે. આ લોકો અમને બહેનોને નીભેળ ગણી અને અમે કેરવાડા નહી રહેતા

હોવાની તકનો લાભ લઈ અમારી જમીનમા જ્યારે જ્યારે અમે ખેતી કરવા જઈએ ત્યારે ખેતી કરવા દેતા નથી. જેવા અમે અમારી જમીન મા જઈએ એટલે આ ઉપરના ચારય અને બીજા તેના ભાઈઓને લઈને અમારી જમીન મા જૂથબળમા વધારે માણસો લાવી અમને ખેતી કરતા અટકાવીને હેરાન પરેશાન કરે છે. જેથી અમારી જમીન અમે આજની તારીખમાં વાવી શકતા નથી"

(13.1) Further, it reveals from the certificate of the Police Inspector Amod Police Station- Bharuch that, offence u/S. 302, 307, 452, 147, 148, 149, 504 of the B.P. act was registered against the accused Saiyad Ismail Motaji and Allibhai Motaji Sayed at Amod police station wide CR No. 1st 46 of 1994.

(13.2) The statement of witness Shivosinh kalyansinh Raj, has also been recorded wherein he has narrated how his land, the accused Saiyad Ismail Motaji, got transferred in his name and after initiating proceedings the above witness got his land back. Moreover the statement of witness Pravinbhai Sakarlal Kothari has also been recorded and the said witness has also stated how the accused got the sale deed executed by playing fraud and got the land (6 blocks) transferred in revenue records in their name, the witness then had to file proceedings for cancellation of entry in the name of accused, fraudulently done and with the help of other village people again he executed the sale-deed in his favour in the revenue record, the relevant papers of proceedings carried out by the said witness are produced during the investigation.

(13.3) Same is the statement of the witness Baseerbhai Ismailsha Diwan according to which the accused got the name of the witness deleted from the record, keeping the witness in dark.

(14) Hence what appears from the investigation till now is that by adopting such *modus-operandi* the accused had converted the land of village people, the witness had stated that the accused are high-handed persons and have group of such people (જૂથ ધરાવે છે)

(15) By referring the sections it is submitted that no such section is applicable but the submission on behalf of Ld. advocate of the applicant can not be considered at this stage as the investigation is in progress.

(15.1) It is to be noted that after filing the present complaint other village people who were the victims of the applicant/accused had come forward, independent witnesses had given their statements during the investigation, the submission on behalf of Ld. advocate of the applicant that, no witness had filed any complaint against any of the accused could not be tenable at this stage as the concerned witnesses, in support of their statement has also produced the documents regarding the procedure carried out by them for getting their land back.

(15.2) It is also submitted that the application is given by the accused persons in a Police is pending, It is to be noted that those proceedings are altogether different proceedings and necessary action may be carried out by the Police.

(16) As per the record considering FIR the last incident mentioned in the FIR regarding the demand of Rs. 40,00,000/- and threat is of 10/04/2026 and on the very next day FIR has been registered, merely, no complaint was given and the Police was not informed regarding the prior incident could not mean that the FIR has been delayed, moreover in the present case independent eye-witnesses had given their statements, it is not only question of fleeing and the presence of accused at the time of trial but at the same time other parameters while deciding bail application are also required to be considered, This court has also considered the principles of bail is rule and jail is exception is considered by this court but at the same time it is required to be noted that each bail application is to be decided on the facts and the circumstances of the given case.

(17) As discussed in detail prima-facie case has appeared against the present applicants still the accused no.1 is out of the reach of Police, considering the overall behaviour, the *modus-operandi* adopted by the present applicants/accused for getting lands of others in the village, the likelihood of the offence being repeated can not be denied, the impression, conduct behaviour of the accused in the village are also on record, the nature and gravity of the offence is also considered by this court. Considering the FIR, the investigating papers, the statements of the eye-witnesses as well as other independent witnesses, it does not appears that colour of criminal nature is given to the civil dispute, as discussed previously civil disputes as per record are finalised, no further proceedings appears to be pending, hence the judgement

sighted and relied upon by the Ld. Advocate for the accused would not of any help.

(18) Considering the above facts and circumstances of the present case, the nature and the gravity of the offence, the likelihood of the offence being repeated, the conduct, behaviour, position and standing of the accused, the accused no.1 still being out of reach of police and the investigation still in progress, this court is not inclined to exercise discretion in favour of the applicants/accused. Hence, following order.

ORDER

Present application is hereby dismissed.

Signed and pronounced in the open Court today on this 29th April 2026.

Date : 29/04/2026.
Place: BHARUCH
(KKC)

(EJAZ MOHSINALI SHAIKH)
2nd Additional District & Sessions
Judge, BHARUCH.
(Judge Code No.GJ00627)