

**IN THE COURT OF 2nd ADDITIONAL SESSIONS JUDGE
& SPECIAL JUDGE (POCSO), AT GANDHINAGAR**

Exh. 10

CRIMINAL MISC. APPLICATION NO. 896 OF 2026

Applicant:-

1. Babubhai Mangaji Dabhi
Age:- 22 Yrs., Occupation:- Labour,
Residing at Vaghjipur, Indiranagar,
Ta. Kapadvanj, Dist. Kheda.

Vs.

Opponent:-

1. The State of Gujarat
Through O/o Dist. Govt. Pleader,
District Court, Gandhinagar.
2. Fuliben W/o Vikramji Galaji Parmar
Residing at Radhukui, मृत्युमेव जयते
Village Devkaran na Muvada, Ta. Dahegam,
Dist. Gandhinagar.

Subject:- Application for Regular Bail U/s. 483 of the
Bharatiya Nagarik Suraksha Sanhita, 2023.

Appearance:

Mr. P.N.Jethva, Learned advocate for the
applicant.

Mr. H.N.Raval, Learned D.G.P. for the State.

J U D G E M E N T

1. This regular bail application is filed by the applicant in connection with FIR registered against him vide Ist C.R.No. 11216005260412 of 2026 with Dahegam Police Station, Dist. Gandhinagar, for the offence punishable under Section 137(2), 87 and 64(2)(m) of The Bharatiya Nyaya Sanhita, 2023 (In short 'BNS') and under Section 4, 5(1), 6 and 8 of The Protection Of Children from Sexual Offences Act, 2012 (In short 'POCSO Act').
2. The case of the prosecution, in nutshell, is that the accused lured victim(aged 16 years, 11 months and 21 days) and on 14.05.2026 at about 17:00 hrs. kidnapped victim from village Radhakui, At Devkaran na Muvada, Ta. Dahegam, Dist. Gandhinagar from her lawful guardianship and accused repeatedly committed penetrative sexual assault on the victim and thereby committed rape on victim and committed the alleged offence.
3. On service of notice, the other side has appeared through learned D.G.P. Mr. H.N.Raval and the I.O. has submitted objections on affidavit vide Exh. 6.
4. Learned advocate Mr. P.N.Jethva appearing on behalf of the applicant submitted that the applicant is innocent

and falsely implicated in the alleged offence. The applicant is in judicial custody since 03.06.2026. The victim voluntarily left her parental home and went with the accused and he has not forced the victim or kidnapped her. The applicant is very young aged 22 years and has no criminal antecedents. Police has wrongly involved the applicant in the alleged offence. It is submitted that investigating agency have completed the investigation and now there are no chances of any tamper or hamper with the evidence and investigation. As per the allegations made, there is no *prima facie* case against the applicant. The trial would take considerable time. It is submitted that applicant is residing at Kapadvanj, Dist. Kheda alongwith his family and sole bread winner of his family. That the applicant is ready and willing to abide by any conditions to be imposed upon him. It is further submitted that the applicant will regularly remain present before this Court during the trial. In view of this matter, there are no any chances of fleeing away from the proceedings of law and the applicant is readily available at the time of trial and therefore, with appropriate conditions whatever the Court deems fit, the applicant may be enlarged on bail.

5. On the contrary, the learned D.G.P. Mr. H.N.Raval has argued that investigation is still going on against the present applicant-accused. The applicant-accused is

resident of District Kheda and if he is released on bail he would hamper the investigation and tamper with the evidence. The present applicant-accused even though knowing that the victim is minor has committed the alleged offence and committed penetrative sexual assault on minor victim by kidnapping the victim from her lawful guardianship and if he is released on bail he will flee away and would not appear before the investigating agency for the purpose of investigation and not appear before the Court during the trial. If the applicant-accused is released on bail he would threaten defacto complainant and prosecution witnesses and hamper the trial. The learned D.G.P. has contended that present application deserves to be rejected.

5.1 The learned Mr. S.S.Shah appeared for the defacto complainant and filed his written objections vide Exh. 8 and submitted that applicant-accused is habitual offender and sells contraband liquor and narcotic substances and if he is released on bail he would threaten defacto complainant and prosecution witnesses and investigation is still going on. It is lastly urged to reject this bail application.

6. I have heard learned advocates for the respective parties. Looking to the facts and circumstances of the case and considering the allegations made in the FIR, it *prima facie* appears that victim is 16 years, 11 months and 21 days old at the time of incident. The victim

being minor, the defence of her willingness or consent, is not a valid defence, in the eyes of law. The report of the IO state that investigation qua application accused is still going on. As per the report of the IO it appears that the present applicant-accused knowing that victim was minor kidnapped the victim and committed rape on victim. In view of the record and case papers, *prima facie* case is made out against applicant-accused. The contention of learned D.G.P. Mr. Raval that applicant-accused is resident of Kheda and if the applicant-accused is released on bail he would threaten the victim and defacto complainant and he would flee away, cannot be brushed aside. Therefore, considering the facts of the case, gravity of the offence, nature of allegations and role attributed to present applicant-accused, this court is of the view that judicial discretion cannot be exercised in favour of present applicant-accused. Hence, following order is passed:-

:: ORDER ::

1. The present application is hereby rejected.

Signed and pronounced in the open Court on this
22nd day of June, 2026.

Dated: 22/06/2026

[Sanjivkamal V.Sharma]

GJ00536

Place:-Gandhinagar

2nd Additional Sessions Judge &
Special Judge (POCSO)
Gandhinagar

//S.A.//