

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 2416 of 2026**

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SAMANDARKHAN BANAJI @ KALUKHAN MALEK
Versus
STATE OF GUJARAT

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Appearance:

MR P B KHANDHERIA(5228) for the Applicant(s) No. 1
JEET V PATEL(8653) for the Respondent(s) No. 1
MR UTKARSH SHARMA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**Date : 13/03/2026****ORAL ORDER**

1. The Applicant has filed this Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for enlarging the Applicant on Regular Bail in connection with FIR being C.R. No.11211058240400 of 2024 registered with Bajana Police Station, Surendranagar.
2. Heard learned Advocate for the Applicant, learned advocate appearing for the Original Complainant and learned APP for the Respondent – State.
3. Rule. Learned APP waives service of notice of Rule on behalf of the Respondent - State and learned Advocate Mr. Jeet V. Patel waives service of notice of Rule on behalf of the Original Complainant.
4. Learned Advocate for the Applicant has submitted that the Applicant has good reputation in the society and no useful purpose would be served by keeping the applicant in jail for

indefinite period. It is further contended that the applicant is ready and willing to abide by all the conditions that may be imposed by this Court if released on bail.

5. Per contra, learned APP has opposed the present application for grant of regular bail contending that the present applicant is the main accused in the present offence as he has fired with the firearm on the chest of the victim and because of which, the victim had sustained severe injuries. The present applicant is having several other antecedents including an antecedent for an offence punishable under Section 302 of the Indian Penal Code. Learned APP has therefore submitted that looking to the nature of offence, this Court may not exercise the discretion in favour of the applicant and the Application may be dismissed.

6. Learned Advocate Mr. Jeet Patel appearing on behalf of the Original Complainant has also opposed the present application contending that there is previous enmity between the present applicant and the other side and because of the same, the incident alleged in the FIR had been taken place. The present applicant is also booked for an offence punishable under Section 302 of the Indian Penal Code. The deceased in the said happens to be the relative of the complainant and therefore there are all chances if the applicant is ordered to be enlarged on bail, the applicant may try to hamper the case of the prosecution and may try to win over the witnesses or threaten the witnesses. He therefore submitted to dismiss the present application.

7. Heard learned Advocates for the parties and perused the

record. The investigation is over and charge sheet is filed. The applicant had earlier preferred Criminal Misc. Application No.10076 of 2025 which was allowed to be withdrawn by this Court vide order dated 09.07.2025. Thereafter, the present successive application has been filed by the applicant. The applicant has been arrested in connection with the present offence on 05.01.2025 and has undergone incarceration for period of one year by now. This Court vide order dated 27.02.2026 had asked the learned Trial Court to submit its report as regards the status of trial. The report submitted by the learned Trial Court as regard status of trial indicates that the prosecution has not even submitted documentary evidence list before the learned Trial Court and the muddamal has also not been produced before the learned Trial Court and because of the same, the trial could not be commenced till date. Having regard to these aspects, the Application deserves consideration. This court has also considered the following aspects:

- (a) As per catena of decisions of Hon'ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. prima facie case, availability of Applicant accused at the time of trial and tampering and hampering with the witnesses by the accused.
- (b) That the learned Advocate for the Applicant has submitted that the Applicant Accused is not likely to flee away.
- (c) That the Applicant is in custody since 05.01.2025.
- (d) The law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. C.B.I. Reported in (2012) 1 SCC 40.**

8. Having heard the learned Advocates for the parties and perusing the record produced in this case as well as taking into

consideration the facts of the case, nature of allegations, gravity of accusation, availability of the Applicant Accused at the time of Trial etc. and the role attributed to the present Applicant accused, the present Application deserves to be allowed and accordingly stands allowed. This Court has also gone through the FIR and police papers and also the earlier order passed by the learned Sessions Court where the learned Sessions Judge has disallowed the bail Application at initial stage. The Applicant Accused is ordered to be released on bail in connection with the aforesaid FIR on executing a personal bond of Rs.10,000/- with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions that he shall:

- (a) not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer or tamper with the evidence.
- (b) maintain law and order and not to indulge in any criminal activities.
- (c) furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change the residence without prior permission of the trial Court.
- (d) provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the trial Court.
- (e) mark presence before the nearest Police Station once every month between 11:00 a.m. and 2.00 pm.
- (f) file an affidavit stating his immovable properties whether self

acquired or ancestral with description, location and present value of such properties before the Trial Court, if any.

(g) not leave India without prior permission of the Trial Court

(h) surrender passport, if any, to the Trial Court within a week. If the Applicant does not possess passport, shall file an Affidavit to that effect.

(i) not enter the Surendranagar District till the conclusion of trial except for attending the Court proceedings.

(j) furnish the residential address before the learned Trial Court.

9. Bail bond to be executed before the Trial Court having jurisdiction to try the case. It would be open for the Trial Court concerned to give time to furnish the solvency certificate if prayed for.

10. If breach of any of the above conditions is committed, the Trial Court concerned will be free to issue warrant or take appropriate action according to law. The Authorities will release the Applicant forthwith only if the Applicant is not required in connection with any other offence for the time being.

11. At the trial, the concerned trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order.

12. Rule is made absolute. Direct service permitted.

AHS

(M. R. MENGDEY,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AMIT SONAGARA(HCD0079), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 17/03/2026 10:24:34