

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 2933 of 2026**

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DHAVALKUMAR SHRAVANBHAI KELA
Versus
STATE OF GUJARAT

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Appearance:
CHETAN D KARIYA(8819) for the Applicant(s) No. 1
MR ADITYA JADEJA ADDL. PUBLIC PROSECUTOR for the Respondent(s)
No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 25/03/2026

ORAL ORDER

1. Heard learned advocate Mr. Chetan D. Kariya appearing on behalf of the applicant and learned Additional Public Prosecutor Mr. Aditya Jadeja appearing on behalf of the respondent-State.
2. Rule. Learned APP waives service of rule on behalf of the respondent-State.
3. 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. 11195004250893 of 2025 registered with Deesa City South Police Station, Dist: Banaskantha, for the offence punishable under Sections 308(6), 308(2) of the BNS.
4. Learned advocate for the applicant would submit that considering the

role attributed to the applicant, and nature of the allegation levelled, the applicant may be enlarged on regular bail. It is further submitted that since the charge-sheet is filed 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. As against the same, learned Additional Public Prosecutor appearing for the respondent – State has vehemently objected to the grant of regular bail. Learned APP has submitted that looking to the nature of offence and the role attributed to the present applicant as coming out from the charge-sheet, this Court may not exercise the discretion in favour of the applicant and the application may be dismissed.

6. At the outset, it requires to be noted, it would appear that the applicant had approached this Court before charge-sheet and whereas while this Court was not inclined to consider the application, the learned advocate having sought for a reasoned order and this Court had rejected the bail application vide an order dated 09.12.2025. It would appear that the applicant had challenged the order before the Hon'ble Apex Court and whereas vide an order dated 12.01.2026, the learned counsel for the applicant was permitted to withdraw the said petition and whereas the Special Leave Petition was dismissed as withdrawn.

7. While learned advocate Mr. Kariya would attempt to take this Court through the merits of the matter, learned APP Mr. Jadeja would vehemently object by submitting that the order of the Hon'ble Apex Court was passed on 12.01.2026, more particularly after the charge-sheet was filed by the

Investigating Officer on 03.01.2026. Learned APP would submit that the applicant, while withdrawing the application had neither sought for any liberty to approach this Court or the learned Sessions Court after the charge-sheet was filed nor was any liberty reserved in favour of the applicant by the Hon'ble Apex Court. Learned APP would submit that under such circumstances, the applicant has to show a specific change of circumstance, whereby the applicant can approach this Court even after an application was withdrawn by the Hon'ble Apex Court after the charge-sheet.

8. Having heard the learned advocates for the parties, this Court is inclined to agree with the learned APP for the respondent State. While this Court is of the considered opinion that the consideration that would weigh with the learned Court taking up the application for regular bail post charge-sheet, would be different from the consideration that had weighed with this Court at the pre-charge-sheet stage, more particularly since the investigation papers would clarify the entire incident, yet in the instant case, a peculiar situation has arisen inasmuch as though the learned advocate for the applicant would submit that the charge-sheet papers have not been submitted before the Hon'ble Apex Court, yet the order of the Hon'ble Apex Court was post the date of the charge-sheet. Thus, the applicant what withdrawing the application ought to have sought for liberty to approach the learned Sessions Court or this Court. As against the same, this Court has noticed the fact that the Hon'ble Apex Court, while permitting the applicant to withdraw the bail application, has not reserved any liberty in favour of the applicant to approach either the learned Sessions Court or this Court. Considering such a situation, judicial propriety and judicial discipline require that this Court ought not to entertain the present application.

9. Thus, for all the purposes withdrawal before the the Hon'ble Apex Court appears to be an unconditional withdrawal, without any liberty

reserved in favour of the applicant to approach either the learned Sessions Court, this Court or even the Hon'ble Apex Court at any stage.

10. This Court has also considered the law laid down by the Hon'ble Apex Court in the case of Virupakshappa Gouda Vs. State of Karnataka reported in (2017) 5 SCC 406, where the Hon'ble Apex Court has inter alia laid down that filing of charge-sheet would not amount to a change of circumstances. It was also observed that 'on the contrary, filing of the charge-sheet establishes that after due investigation, the investigating agency, having found material, has placed the charge-sheet for trial of the accused persons'. The above notwithstanding the fact that without liberty granted by the Hon'ble Apex Court, this Court would even otherwise not be entitled to hear and decide the present bail application.

11. Having regard to the above, the present application is disposed of as rejected. Notice is discharged.

Y.N. VYAS

(NIKHIL S. KARIEL,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: YAGNESH NARENDRABHAI VYAS(HC00207), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 08/04/2026 11:58:18