

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 2380 of 2025**

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FAKRUNNISHA ABDULJABBAR MOHMEDUSMAN SHAIKH
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR. SOEB R. BHOHARIA(2205) for the Applicant(s) No. 1
VALIMOHAMMED PATHAN(6383) for the Applicant(s) No. 1
MR CHINTAN DAVE, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 04/03/2025

ORAL ORDER

1. Heard Mr. Soeb Bhoharia, learned advocate for the applicant.

2. Mr. Soeb Bhoharia, learned advocate for the applicant submits that the so-called incident occurred on 04.07.2024 and the FIR is registered on 09.07.2024 and therefore, there is delay of 05 days in registering the FIR. He further submits that in the present incident, three persons have been died and on the death of the daughter-in-law of complainant i.e. Trupal, an accidental death entry was made and at that relevant point of time, the name of the present applicant was not mentioned. Despite the said fact that the complainant has raised suspicious towards one accused viz. Raja Shaikh, who happens to be son of the present applicant and then-after, the statement of the complainant was recorded on two occasions;

in the first disclosure statement, the name of the applicant has not mentioned, but then-after, subsequently, on 29.07.2024, further statement of the complainant was recorded, wherein, a specific averment against the applicant is made, wherein, on the basis of statement made by Trupal against him and a story was made that the applicant has given assurance to Trupal, if nobody is ready to keep her alongwith her son, in that event, she has to come with her, and she will manage, except that no any specific allegation and/or accusation was levelled against the present applicant. Learned advocate further submits that therefore, after submission of charge-sheet, a discharge application is preferred and the said discharge application is not entertained by putting reliance upon totally non-connected material and or evidence by the concerned court and therefore, being aggrieved by and dissatisfied with the said order, the applicant has approached this Court by way of present application.

3. Learned APP has opposed the present application with a vehemence and submitted that present applicant has been enlarged on bail by the court concerned considering her age.

4. Considering the above-stated factual aspects, I am of the opinion that there is merit in the application. Hence, **Issue Notice** to the respondents returnable on **28.04.2025**. Learned APP waives service of notice of rule for and on behalf of the respondent no.1 – State of Gujarat.

The respondent no.2 be served directly through concerned police station.

During the interregnum period, it is open for the applicant to prefer an application for seeking time. The learned trial court to consider the same in a sympathetically manner.

Direct service is permitted.

(DIVYESH A. JOSHI,J)

A. B. VAGHELA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ARUNA BHARATSINGH VAGHELA(HC01079), PRIVATE SECRETARY, at High Court of Gujarat on 06/03/2025 12:28:50