

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER
CHARGESHEET) NO. 3499 of 2025

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JIYAD @ SAMIR LATIF SHAIKH
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MS TASNIM A ZABUAWALA(10756) for the Applicant(s) No. 1
MR. DIVYANG A RAMANI(7180) for the Respondent(s) No. 2
MR DHAWAN JAYSWAL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 01/09/2025

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.11205046240007 of 2024 registered with Cyber Police Station Border Range-Bhuj, Kuchchh West-Bhuj.
2. Heard learned Advocate for the Applicant, learned advocate for the Respondent-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. Divyang A. Ramani 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 had created a fake social media ID in the name of the brother of the prosecutrix and had uploaded certain photographs of the prosecutrix on the said social media platform. He further submitted that the trial of the offence has already commenced. 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. Divyang A. Ramani appearing for the Original Complainant has also opposed the application contending that the present applicant had uploaded nude photographs of the prosecutrix on the social media handle which was created by the present applicant in the name of the brother of the prosecutrix. Thereafter, the applicant had also lured other victims similarly as the present victim was lured. He further submitted that the applicant had forcefully established physical relations with the prosecutrix by threatening her that he was a gangster. 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. From the record it appears that the incident alleged in the FIR had

taken place between 20.08.2021 to 20.06.2024 for which the FIR came to be lodged on 16.10.2024. It is the case of prosecution that the FIR came to be lodged only after the present applicant had uploaded certain obscene photographs of the prosecutrix on the social media platform. This Court has seen the photographs which were allegedly uploaded by the present applicant on the social media platform and those photographs of the prosecutrix can not be said to be nude photographs. Moreover, upon perusal of the statement of the prosecutrix recorded under Section 183 of the BNSS, it appears that there was love affair between herself and the present applicant. Having regard to these aspects and also the fact that the applicant has been arrested in connection with the present offence on 18.10.2024 and out of 32 witnesses cited by prosecution in the charge-sheet, only 5 witnesses have been examined till today, 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 18.10.2024.
- (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 concerned Police Station once in a month for a period of six months 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 leave the territory of State of Gujarat without prior permission of the concerned 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 01/09/2025 18:36:46