

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER
CHARGESHEET) NO. 3743 of 2025**

**With
R/CRIMINAL MISC.APPLICATION NO. 3829 of 2025
With
R/CRIMINAL MISC.APPLICATION NO. 3831 of 2025**

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RAHIMKHAN IMAMKHAN BALOCH

**Versus
STATE OF GUJARAT**

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Appearance:

MR BHADRESH RAJU, SR.ADVOCATE with MR TATSAT A BHATT(12760)
for the Applicant(s) No. 1
MR HARDIK SONI, APP for the Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 25/03/2025

ORAL ORDER

1. Rule. Learned APP waives service of Rule on behalf of the Respondent State.
2. The Applicants have filed this Applications under Section 439 of the Code of Criminal Procedure for enlarging the Applicants on Regular Bail in connection with FIR being C.R. No.11195009240389 of 2024 registered with Chhapi Police Station. Banaskantha.
3. Heard learned senior advocate Mr.Bhadresh Raju with learned advocate Mr.Tatsat A. Bhatt for the applicants and learned APP Mr.Hardik Soni for the Respondent – State.

4. He submitted that the offence alleged in the FIR had taken place on 24.6.2024 whereas the FIR came to be lodged for the said offence on 23.7.2024, that is after the period of one month. The delay caused in lodging the FIR had not been explained. The case of prosecution rests upon circumstantial evidence and the chain of circumstantial evidence, which is sought to be relied upon by the prosecution against the present applicants is not complete and does not prompt towards the guilt of the applicants. There is no material, whatsoever, connecting the present applicants with the offence in question. The circumstances which are sought to be relied upon by the prosecution against the present applicants are direct piece of evidence which is not likely to result into the conviction of the present applicants for the offence in question.

4.1 Learned Advocate for the Applicants submitted that the Applicants have good reputation in the society and no useful purpose would be served by keeping the applicants in jail for indefinite period. It is further contended that the applicants are 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 vehemently opposed the present applications for grant of regular bail contending that the applicants herein had actively participated in commission of the offence in question. The deceased was done to death and the incident was sought to be projected as a vehicular accident and thereafter, the dead body of the deceased was also buried in without performance of any postmortem. He submitted that one of the applicants had illicit relationship with the wife of the

deceased and the same had resulted into the commission of the present offence. Thus, there is a strong *prima facie* evidence against the present applicants for the offence in question. He therefore submitted that looking to the nature and gravity of offence, this Court may not exercise the discretion in favour of the applicants and the applications may be dismissed.

6. Heard learned advocates for the respective parties and perused the record. From the record it appears that the investigation is over and charge-sheet has been filed. As per the case of prosecution, one of the present applicants namely Altaf and wife of the deceased were in illicit relationship and since the deceased had known about the said relationship, there used to be frequent quarrels and therefore it was decided by the accused persons to eliminate the deceased.

6.1 From the record it appears that on the fateful day, the deceased was dashed by the tractor and the said tractor was being driven by one of the present applicants at the relevant time. It is the case of prosecution that the applicant namely Rahim Khan had dashed the tractor with the deceased with an intention to kill him. He had also borrowed the tractor from his owner and after the incident was over, the same was sought to be projected as a vehicular accident. It is also the case of prosecution that after the incident had taken place, the applicant namely Altaf had not allowed the postmortem to be carried out upon the dead body of the deceased nor had allowed any FIR to be lodged. Thus, the conduct on part of the present applicants prior to the incident and after the incident is sought to be canvassed by the prosecution against the present applicants.

However, there is no direct evidence so far as the involvement of the present applicants in the offence in question. Considering the same, the applications deserves consideration.

7. This court has 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 Applicants accused at the time of trial and tampering and hampering with the witnesses by the accused.
- (b) That the learned Advocate for the Applicants submitted that the Applicant Accused is not likely to flee away.
- (c) That the Applicants are in custody since 23.7.2024.
- (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 Applicants Accused at the time of Trial etc. and the role attributed to the present Applicants accused, the present Applications 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 Applications at initial stage. The Applicants Accused are ordered to be released on bail in connection with the aforesaid FIR on executing a personal bond of Rs.10,000/- (each) with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions

that they 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) 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.

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

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

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 Applicants forthwith only if the Applicants are 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.

(M. R. MENGDEY,J)

Manshi

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AMIN MANSI(HC01561), Private Secretary, at High Court of Gujarat on 25/03/2025 14:58:20