

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 8266 of 2026**

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VIVEK S/O CHANDRASHEKHAR BEKARU(CASTE-KAUSHAL)
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR UVESH M SHAIKH(11313) for the Applicant(s) No. 1
HCLS COMMITTEE(4998) for the Respondent(s) No. 2
LEEN K DAVE(9559) for the Respondent(s) No. 2
MR HARDIK MEHTA ADDL. PUBLIC PROSECUTOR for the Respondent(s)
No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 05/05/2026

ORAL ORDER

1. Heard learned advocate Mr. Mufizahmed Kadri appearing on behalf of the applicant, learned Additional Public Prosecutor Mr. Hardik Mehta appearing on behalf of the respondent-State and Learned advocate Mr. Leen K. Dave on behalf of the complainant.
2. Rule. Learned APP waives service of rule on behalf of the respondent-State and learned advocate Ms. Dave waives service of rule on behalf of the respondent No.2
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.11191040240900 of 2024 registered with Sardarnagar Police Station, Ahmedabad, for the offence punishable under Sections 363, 366, 376(2)(N), 376(3), 114 of the Indian

Penal Code and Sections 3(A), 4, 5(L), 6 and 18 of POCSO Act.

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 and learned advocate for respondent No.2 have 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. I have heard learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered:-

- i. While the age of the prosecutrix is stated to be around 13 years, the age of the present applicant being 22 years could not be ignored.
- ii. It also appears that the applicant and the prosecutrix were having a love affair, thus negating any allegations of threat, force or coercion involved and reflecting the consensual nature of the relationship.
- iii. It also appears that the applicant and the prosecutrix were having a love affair and had eloped for a period of four months.

- iv. The Hon'ble Supreme Court in case of **State of Uttar Pradesh vs. Anurudh & Anr.** reported in **2026 INSC 47** having noted the fact of the POCSO Act being misused even when the case is one of a romantic / consensual relationship between adolescents or one where the prosecutrix / victim is adolescent and where the age gap between the parties is not substantial.
- v. The fact of the present applicant being in custody since 25.08.2024 and the charge-sheet having been laid by the Investigating Officer.
- vi. Apprehension of the learned APP that the applicant not being resident of the State of Gujarat, if released, may abscond, could be allayed by imposing suitable conditions.

This Court has taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation reported in [2012] 1 SCC 40.**

7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the First Information Report, without discussing the evidence in detail, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

8. Hence, the present application is allowed. The applicant is ordered to be released on bail in connection with F.I.R. registered as C.R. No. 11191040240900 of 2024 registered with Sardarnagar Police Station, Ahmedabad, on executing a bond of Rs.10,000/- (Rupees Ten Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

- [a] not take undue advantage of liberty or misuse liberty;
- [b] not act in a manner injurious to the interest of the prosecution;
- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave the State of Gujarat without prior permission of the Sessions Court concerned;
- [e] furnish the present address of residence to the I.O. and also to the Court at the time of execution of the bond and shall not change the residence without prior intimation to the I.O.;
- [f] mark presence once a month before the concerned police station for a period of six months.
- (g) Not to enter Ahmedabad City for a period of six months except for marking presence.
- (g) not to try and contact the prosecutrix in any manner whatsoever.

9. The Authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Court concerned will be free to take appropriate action in the matter.

10. Bail bond to be executed before the lower court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions in accordance with law.

11. At the stage of trial, the trial court shall not be influenced by any observations of this Court which are of preliminary nature made at this

stage, only for the purpose of considering the application of the applicant for being released on regular bail.

12. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct service is permitted.

Y.N. VYAS

(NIKHIL S. KARIEL,J)