

Reserved On : 09/07/2026
Pronounced On : 15/07/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR CANCELLATION OF BAIL) NO.
10012 of 2026**

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KRUNAL ATULKUMAR THEKDI
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR PIYUSH B TRIVEDI(12401) for the Applicant(s) No. 1
MR BM MANGUKIYA(437) for the Respondent(s) No. 2
MS BELA A PRAJAPATI(1946) for the Respondent(s) No. 2
MR TIRTHRAJ PANDYA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE SANJEEV J.THAKER

CAV ORDER

1. This is an application for cancellation of bail preferred by the present applicant – original complainant under Section 483(3) of the Bharatiya Nagrik Suraksha Sanhita ('the BNSS' for short), seeking quashment of the impugned order dated 02.04.2026 passed by the learned City Civil and Sessions Court, Court No.07, Ahmedabad in Criminal Misc. Application No.2119 of 2026, whereby the learned trial Court has granted regular bail to the respondent–original accused in connection with the FIR being C.R. No.11191011260080 of 2026 registered with DCB Police Station, Ahmedabad City, Dist.Ahmedabad City, for the offences punishable under Sections 316(5), 316(2) and 61(2) of the Bharatiya Nyay Sanhita, 2023. (the 'BNS' for short).

2.1 Learned advocate appearing for the applicant has vehemently submitted that the learned trial Court has failed to appreciate the gravity and seriousness of the offence alleged against the respondent–accused and has mechanically granted bail. It is submitted that the impugned order has been passed without proper consideration of the material available on record.

Learned advocate for the applicant has further submitted that while considering the bail application preferred by the respondent–accused, the learned trial Court did not adequately examine the evidence collected during the course of investigation and therefore, committed a grave error in exercising its discretion in favour of the accused. The learned advocate has drawn attention to the serious allegations levelled against the respondent–accused in the FIR and submitted that looking to the nature and gravity of the same, the learned Court ought not have granted the bail to the respondent–accused.

Referring to the documents and material produced on record, the learned advocate for the applicant has submitted that the learned Court has ignored the same and the intention of the respondent–accused to commit the offence

as alleged. Despite the availability of such incriminating material, the learned trial Court failed to assign proper weight to the same and erroneously granted bail to the respondent–accused.

It is, therefore, submitted that the impugned order granting bail suffers from non-application of mind and improper appreciation of the material on record. Considering the seriousness of the offence, the strength of the evidence collected during investigation and the likelihood of prejudice to a fair investigation/trial, it is submitted that the present application may be allowed by cancelling the bail granted to the respondent–accused in the interest of justice.

2.2 Learned Additional Public Prosecutor appearing for the State has adopted the submissions advanced by the learned advocate for the applicant and has further submitted that the impugned order granting bail to the respondent–accused is contrary to the material available on record. It is contended that the learned Trial Court has granted bail without properly appreciating the evidence collected during the course of investigation and without taking into consideration the gravity and seriousness of the offence alleged against the respondent–accused.

It is further submitted that the learned Trial Court has failed to consider the affidavit filed by the Investigating Officer, wherein specific grounds were raised opposing the grant of bail. The contents of the said affidavit, which were material and relevant for deciding the bail application, have not been duly considered by the learned Trial Court while exercising its discretion in favour of the respondent–accused.

It is, therefore, submitted that the learned Trial Court has exercised its discretion in an erroneous manner and that the impugned order deserves to be set aside. In view of the seriousness of the allegations and the larger interest of a fair and effective investigation, this Hon'ble Court may be pleased to allow the present application, cancel the bail granted to the respondent–accused, and direct that the respondent–accused be taken into judicial custody in accordance with law.

It is further submitted that the accused is habitual and there are many victims who are duped by him.

3. *Per contra*, learned advocate appearing for the respondent–accused has opposed the present application and submitted that the impugned order granting bail is a well-

reasoned and speaking order passed upon due consideration of the facts and circumstances of the case. It is contended that the learned Trial Court has exercised its discretion judiciously and in accordance with settled principles of law and, therefore, no interference is warranted by this Hon'ble Court in exercise of its jurisdiction.

It is further submitted that while passing the impugned order, the learned Trial Court has extensively considered all relevant aspects, including the nature of allegations, the material collected during investigation, and the submissions advanced by both sides. After appreciating the entire material available on record, the learned Trial Court found it appropriate to enlarge the respondent–accused on bail. Hence, it cannot be said that the order suffers from any illegality, perversity, or non-application of mind so as to justify cancellation of bail.

It is also submitted that the prosecution has failed to point out any supervening circumstance warranting cancellation of bail. In particular, it is not the case of the State that the respondent–accused has violated or flouted any of the conditions imposed while granting bail. There is no allegation that the respondent–accused has attempted to tamper with evidence, influence witnesses, obstruct the course

of justice, or misuse the liberty granted by the Court.

In view of the aforesaid facts and circumstances, it is submitted that no case is made out for cancellation of bail. The present application, being devoid of merits, deserves to be rejected and the bail granted to the respondent–accused may kindly be continued.

4. At the outset, it is pertinent to note that the present application has been filed under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), challenging the order of regular bail granted to the present respondent-accused by the learned Sessions Judge in exercise of powers under Section 483 of the BNSS. There is a statutory remedy available to the applicant to prefer an appeal under the relevant provisions governing challenge to the grant of bail. However, instead of availing the prescribed remedy, the applicant has directly approached this Hon'ble Court seeking cancellation of bail. Such a course is impermissible in law in view of the judgment of the Hon'ble Supreme Court in *Himanshu Sharma v. State of Madhya Pradesh*, reported in (2024) 4 SCC 222, wherein it has been held that a challenge to an order granting bail must be pursued through the appropriate statutory remedy and cannot be entertained directly by way of a petition seeking

cancellation of bail in the absence of supervening circumstances warranting such cancellation.

4.1 Having heard the learned advocates appearing for the respective parties and upon perusal of the impugned order passed by the learned Trial Court as well as the material available on record, this Court is of the view that the present application has been filed merely on the basis of presumptions and assumptions, without placing on record any cogent material or demonstrating the existence of any supervening or prevailing circumstances warranting interference with the order granting bail. In the absence of any substantive material to justify the relief sought, the application does not merit consideration.

It emerges from the record that the respondent–accused was arrested during the course of investigation. However, even after his arrest, the Investigating Agency did not seek his custodial remand, which clearly indicates that substantial investigation qua the respondent–accused had already been completed and that his further detention was not considered necessary for the purposes of investigation. Taking into consideration the aforesaid circumstances, the learned Trial Court, by the impugned order, enlarged the respondent–accused on regular bail.

The learned trial Court, while granting bail, imposed stringent conditions to secure his presence and ensure that the investigation and trial were not prejudiced. Significantly, since the date of grant of bail, no untoward incident has been reported.

Moreover, it is not the case of the present applicant–original complainant that the respondent–accused has, at any point of time, tampered with the evidence, attempted to influence or intimidate witnesses, obstructed the course of justice, or committed breach of any of the conditions imposed while granting bail. In the absence of any such supervening circumstance or material demonstrating misuse of liberty by the respondent–accused, the present application seeking cancellation of bail appears to have been filed merely on the basis of conjectures and apprehensions, which cannot constitute a valid ground for cancellation of bail in law.

4.2 Upon a careful examination of the findings recorded and the conclusions arrived at by the learned Judge, this Court finds that all the relevant facts and circumstances of the case have been duly considered. The impugned order reflects proper application of mind to the material available

on record, and detailed as well as cogent reasons have been assigned by the learned Judge while passing the said order. This Court does not find any perversity, illegality, or infirmity in the reasoning adopted by the learned Trial Court warranting interference.

4.3 It is well settled that the parameters governing rejection of a bail application at the initial stage and cancellation of bail already granted by a competent Court are distinct and operate in different spheres. Once bail has been granted, its cancellation can be justified only upon the existence of cogent and overwhelming circumstances, such as misuse of liberty by the accused or the emergence of supervening circumstances warranting such cancellation.

4.4 In the present case, from the contents of the FIR, it transpires that the applicant-complainant and the respondent-accused had interse business transactions and the respondent-accused purchased the chemical and did not make the payment and the cheques issued for the said payment were dishonoured, which means that the goods were sold and delivered but the payment is not done by the respondent-accused and it is a commercial transaction between them and the dispute is of a civil nature; further, there is no explanation coming forth for the delay in registering the FIR.

Considering these factors and the factor that the respondent-accused is not likely to flee away, the learned Court has granted the bail to the respondent-accused. Furthermore, it is not even the case of the applicant or the State that the respondent-accused has misused the liberty granted by the Court, breached any of the conditions imposed, tampered with evidence, influenced witnesses, or otherwise acted in a manner prejudicial to the fair conduct of the proceedings. In the absence of any such material, no case is made out for cancellation of the bail granted by the competent Court.

4.5 In the case of *P. Vs. State of Madhya Pradesh & Anr.*, reported in *(2022) SCC Online SC 552*, the Hon'ble Supreme Court has enumerated the circumstances, when bail could be canceled and one of the conditions stated therein is the misuse of the liberty granted to the accused concerned by the Court by involving himself in a subsequent crime.

4.6 Further, it would be fruitful to refer to the decision of the Hon'ble Apex Court in the case of *Ajwar Vs. Waseem* reported in *2024 INSC 438*, wherein the Hon'ble Apex Court has observed that the same Court which granted bail to an accused can cancel the bail if there are serious allegations against him, even if the accused has not misused the bail. If there are serious allegations against the accused,

even if he has not misused the bail granted to him, such an order can be canceled. However, once bail is granted, it ought not to be canceled in a mechanical manner. An unreasonable or perverse order of bail may invite interference by the Apex Court. Personal liberty is one of the cherished Constitutional freedoms, and once bail is granted during the pendency of the trial, it must only be retracted in the face of grave circumstances. The Hon'ble Supreme Court in the said decision, in paragraphs 27 and 28, has observed as under :

“27. The considerations that weigh with the appellate Court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However,

the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

28. In Jagjeet Singh (supra), a three-Judges bench of this Court, has observed that the power to grant bail under Section 439 Cr.P.C is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an [2024] 5 S.C.R. 593 Ajwar v. Waseem and Another application for bail. But this discretion is not unfettered. The order passed must reflect due application of judicial mind following well established principles of law. In ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant

material, the appellate Court would be well within its power to set aside and cancel the bail.”

4.7 In the case of ***Gurcharan Singh and others Vs. State (Delhi Administration)***, reported in ***(1978) 1 SCC 118***, the Hon'ble Supreme Court had an occasion to observe that the concept of setting aside the unjustified, illegal or perverse order is totally different from the concept of canceling the bail on the ground that the accused has misconducted himself or because of some new facts are requiring such cancellation. In Paragraph No.16, the Hon'ble Supreme Court Court has observed as under :

"16. Section 439 of the new Code confers special powers on High Court or Court of Session regarding bail. This was also the position under Section 498 CrPC of the old Code. That is to say, even if a Magistrate refuses to grant bail to an accused person, the High Court or the Court of Session may order for grant of bail in appropriate cases. Similarly under Section 439(2) of the new Code, the High Court or the Court of Session may direct any person who has been released on bail to be arrested and

committed to custody. In the old Code, Section 498(2) was worded in somewhat different language when it said that a High Court or Court of Session may cause any person who has been admitted to bail under sub-section (1) to be arrested and may commit him to custody. In other words, under Section 498(2) of the old Code, a person who had been admitted to bail by the High Court could be committed to custody only by the High Court. Similarly, if a person was admitted to bail by a Court of Session, it was only the Court of Session that could commit him to custody. This restriction upon the power of entertainment of an application for committing a person, already admitted to bail, to custody, is lifted in the new Code under Section 439(2). Under Section 439(2) of the new Code a High Court may commit a person released on bail under Chapter XXXIII by any Court including the Court of Session to custody, if it thinks appropriate to do so. It must, however, be made clear that a Court of Session cannot cancel a bail which has already been granted by the High Court unless new

circumstances arise during the progress of the trial after an accused person has been admitted to bail by the High Court. If, however, a Court of Session had admitted an accused person to bail, the State has two options. It may move the Sessions Judge if certain new circumstances have arisen which were not earlier known to the State and necessarily, therefore, to that Court. The State may as well approach the High Court being the superior Court under Section 439(2) to commit the accused to custody. When, however, the State is aggrieved by the order of the Sessions Judge granting bail and there are no new circumstances that have cropped up except those already existed, it is futile for the State to move the Sessions Judge again and it is competent in law to move the High Court for cancellation of the bail. This position follows from the subordinate position of the Court of Session vis-a-vis the High Court."

4.8 The aforesaid observations made by the Hon'ble Supreme Court has been reiterated by the Hon'ble Supreme Court in the case of ***Puran Vs. Rambilas & Anr.***, reported in

(2001) 6 SCC 338 as well as in case of *Abdul Basit alias Raju & Ors. Vs. Mohd. Abdul Kadir Cahudhary & Anr.*, reported in *(2014) 10 SCC 754*.

4.9 In the case of *Ranjit Singh Vs. State of M.P.*, reported in *(2013) 16 SCC 797*, the Hon'ble Supreme Court has held as under in Para-19 :

"19. It needs no special emphasis to state that there is distinction between the parameters for grant of bail and cancellation of bail. There is also a distinction between the concept of setting aside an unjustified, illegal or perverse order and cancellation of an order of bail on the ground that the accused has misconducted himself or certain supervening circumstances warrant such cancellation. If the order granting bail is a perverse one or passed on irrelevant materials, it can be annulled by the superior court. We have already referred to various paragraphs of the order passed by the High Court. We have already held that the learned trial Judge has undefined misconstrued the order passed by the High Court. However, we

may hasten to add that the learned Single Judge has taken note of certain supervening circumstances to cancel the bail, but we are of the opinion that in the obtaining factual matrix the said exercise was not necessary as the grant of bail was absolutely illegal and unjustified as the court below had enlarged the accused on bail on the strength of the order passed in Ranjeet Singh v. State of M.P. [Ranjeet Singh v. State of M.P., MCRC No. 701 of 2013, order dated 1- 2-2013 (MP)] remaining oblivious of the parameters for grant of bail under Section 439 CrPC. It is well settled in law that grant of bail though involves exercise of discretionary power of the court, yet the said exercise has to be made in a judicious manner and not as a matter of course."

4.10 At this juncture, the observations made by the Hon'ble Supreme Court in case of ***Dolat Ram & Ors. Vs. State of Haryana***, reported in ***1995(1) SCC 349***, is required to be recollected. It was observed therein that very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail already granted. The

grounds for cancellation of bail though are broad, but illustrative and not exhaustive; are interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner.

4.11 In the present case, the impugned order passed by the learned Trial Court is founded upon sound legal principles and is supported by cogent and well-reasoned findings. This Court finds no infirmity, perversity, or illegality in the said order so as to warrant interference in exercise of its jurisdiction. The learned Trial Court, while enlarging the accused on bail, has imposed appropriate and stringent conditions to safeguard the interests of the prosecution and to ensure the fair conduct of the proceedings.

Furthermore, it is a settled principle of law that while considering matters relating to bail, the Court should refrain from undertaking a detailed appreciation of the evidence on record, as any such observation may prejudice the case of either side at the stage of trial. Therefore, in the facts and circumstances of the present case, no ground is made out to interfere with the order granting bail.

5. Thus, in view of the aforesaid facts and circumstances, this Court is of the considered opinion that the applicant has failed to make out any case warranting interference with the impugned order granting bail in favour of the respondent–accused. No sufficient grounds, reasons, or supervening circumstances have been brought on record so as to justify cancellation of bail or to persuade this Court to take a different view than that taken by the learned Trial Court.

6. Accordingly, the present application is **rejected**. Rule is discharged.

SRILATHA

(SANJEEV J.THAKER,J)