

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL (REGULAR BAIL) NO. 1017 of 2026

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BHAGVAN @RAHUL @GOLIYA CHANDRAKANT KHAIRNAR
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR. KISHAN H DAIYA(6929) for the Appellant(s) No. 1
NOTICE SERVED for the Opponent(s)/Respondent(s) No. 2
MR KANVA ANTANI, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 14/07/2026

ORDER

Though served, respondent No.2 has chosen not to appear before this Court.

[1.0] **ADMIT.** Learned APP waives service of notice of admission on behalf of respondent No.1 – State of Gujarat.

[2.0] Present appeal is filed by the appellant under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “Atrocity Act”) challenging the order dated 18/04/2026 passed by the learned 13th Additional Sessions Judge and Special Judge (Atrocity), Surat in Criminal Misc. Application No.2523 of 2026 whereby the learned Judge rejected the application filed by the present appellant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in connection with **FIR being C.R.No.11210025260012 of 2026 registered with Limbayat Police Station, District Surat** for the offences punishable under Sections 103(1), 296(b), 189(2), 189(4), 190, 191(3), 54 of BNS,

2023 and Section 135 of Gujarat Police Act and Sections 103(2), 61(2)A, 115(2) of BNS, 2023 and Sections 3(2)5, 3(2)(5-A) of the Atrocity Act and prayed for release on regular bail.

[3.0] Learned advocate appearing on behalf of the appellant submits that appellant is innocent and has been falsely implicated in the offence. The appellant has not actually participated in the offence alleged and has not made any assault. He chased friend of the deceased namely Nilesh and other co-accused have chased the deceased and one knife blow was inflicted by co-accused Om Girase. Presence of the appellant is not noticed in alleged killing of the deceased. In the CCTV footage also, it is not noticed that any weapon is used by the appellant. Subsequent role of the appellant is that he has made assault by kick and fist blows but no such injury is noted in the PM report. Investigation is over and charge-sheet has been filed. He therefore submits that, considering the nature of the offence, the appellant may be enlarged on regular bail by imposing suitable conditions.

[4.0] Learned APP appearing on behalf of the respondent-State has opposed the present appeal and submitted that the appellant is very much involved in the offence. The appellant is facing serious charges. With the common object, forming unlawful assembly, the accused armed with deadly weapons came on the motor cycle and made assault to the deceased and his friend Nilesh and inflicted fatal blows in which Jayesh died. Learned court below has not committed any error while rejecting bail application of the appellant. If the appellant is released, possibility cannot be ruled out of tempering with the evidence. Therefore, present appeal does not deserve any consideration

[5.0] While granting bail, the Court has to consider the involvement of the accused in the alleged offence, the jurisdiction to grant bail has to be exercised on the basis of the well settled principles having regard to the facts and circumstances of each case and the following factors are to be taken into consideration while considering an appeal for bail: (i) the nature of accusation and the severity of the punishment and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses and threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations are required to be considered.

[6.0] I have heard the learned advocates appearing on behalf of the respective parties and perused the investigation papers. If we peruse the documents, it appears that the appellant is facing serious charges under Section 103 (1) read with Sections 189 (2) (4) and 190 of BNS, 2023. The incident took place in two parts. It is undisputed fact that the present appellant came along with co-accused but the deceased and his friend Nilesh both were present and it is alleged present applicant along with his friend chased Nilesh who is an eye witness. As per the statement of Nilesh, it appears that present appellant Rahul, Vedant, and Vishal chased Nilesh while Jayesh went in another direction and co-accused namely Om, Gaurav and Yash@Ishu chased the deceased and Om Girase inflicted knife blow on the chest of the deceased Jayesh and

thereby Jayesh succumbed to such fatal injury. Considering statement of eye witness Nilesh, role of the appellant is chasing said witness and actually he has not participated in the alleged offence. Following aspects have been considered:

- (1) Investigation is over and charge-sheet has been filed;
- (2) Appellant is behind the bar since **01/01/2026**;
- (3) The appellant is 19 years old boy and he has actually not participated in the offence and has not made any assault;
- (4) No past antecedents;
- (5) Perusing the statement of victim under Section 183 of Criminal Procedure Code, it appears that there is consensual relationship;
- (6) Nothing is required to be recovered or discovered from the appellant;
- (7) There is no possibility to conclude the trial in near future.

[7.0] This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra vs. Central Bureau of Investigation reported in [2012]1 SCC 40 as well as in the case of Gudikanti Narasimhulu And Ors vs. Public Prosecutor, High Court of Andhra Pradesh reported in (1978)1 SCC 240**. Obviously, the conclusion of trial will take time and keeping the accused behind the bars is nothing but amounts to pre-trial conviction and therefore, considering the celebrated principle of bail jurisprudence is that "bail is a rule and jail is exception" as well as the concept of personal liberty guaranteed under Article 21 of the Constitution of India, present appeal deserves consideration.

[8.0] In the facts and circumstances of the case and considering the nature of the allegations made against the appellant in the FIR, 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 appellant on regular bail. Hence, the present appeal is **allowed**. The order dated 18/04/2026 passed by the learned 13th Additional Sessions Judge and Special Judge (Atrocity), Surat in Criminal Misc. Application No.2523 of 2026 is hereby quashed and set aside and the appellant is ordered to be released on regular bail in connection with connection with **FIR being C.R.No.11210025260012 of 2026 registered with Limbayat Police Station, District Surat**, on executing a personal bond of Rs.25,000/- (Rupees Twenty-five 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 & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not leave the State of Gujarat without prior permission of the Trial Court concerned;
- (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 p.m.;
- (f) furnish Aadhar card number, contact number/s, email ID, passport number (if having) and the present address of his residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of Trial Court;
- (g) not to directly or indirectly indulge in any illegal activity during on bail failing which learned trial Court shall have liberty to issue warrant and cancel the bail;

[9.0] The authorities will release the appellant 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 Judge concerned will be free to issue warrant or take appropriate action in the matter.

[10.0] 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.

[11.0] At the trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the appellant on bail.

[12.0] Present appeal is allowed accordingly. Direct service is permitted.

(HASMUKH D. SUTHAR,J)

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