

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 11006 of 2026**

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NILESHBHAI MENSIBHAI KARGATHIYA

Versus
STATE OF GUJARAT

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Appearance:

MR Y J PATEL(3985) for the Applicant(s) No. 1

MR TRUPESH KATHIRIYA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 25/06/2026

ORDER

1. The applicant has filed this Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) for enlarging the applicant on Regular Bail in connection with FIR being C.R. No. 11189007250345 of 2025 registered with Wankaner City Police Station, District: Morbi for the offences punishable under Sections 108 and 54 of the B.N.S.

2. Heard learned advocate appearing for the applicant and learned Additional Public Prosecutor for the Respondent – State.

2.1 Rule. Learned PP waives service of Rule on behalf of the Respondent State.

3. 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.

4. Per contra, the application is opposed by learned APP for the respondent contending that the present applicant happens to be the husband of the deceased. The deceased had committed suicide because the present applicant has having an illicit relationship with another lady. He further submitted that the earlier application filed by the present applicant was withdrawn by him from this Court on 07.10.2025 and this Court had not granted any permission to him to file successive application. He further submitted that there is no change in circumstances after withdrawal of the earlier application. He therefore submitted to dismiss the present application.

5. This Court has considered the submissions canvassed by learned advocates for the parties and has also perused the material placed on record. The investigation is over and chargesheet is filed. On 08.05.2026, it was contended by learned advocate appearing for the applicant before this Court that though the summons has been issued by the learned Trial Court to the complainant, he is not remaining present before the concerned Trial Court for recording of his deposition. Pursuant to the aforesaid submission being made, this Court had asked the learned Trial Court to submit the report. The report submitted by the learned Trial Court indicate that for the first time summons was issued to the complainant on

03.01.2026 and since then the complainant is not remaining present before the learned Trial Court for giving his deposition and is seeking adjournment on every occasion on one or the other reasons. Thus because of absence of the complainant before the learned Trial Court the Trial is not proceeding further. The applicant was arrested in connection with the present offence on 01.07.2025 and since then he is in custody. Considering the same, the application deserves consideration.

6. 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 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 judicial custody.
- (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.**

7. 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 the applicant 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) 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..
- (g) 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.

(h) shall mark his presence before the concerned police station once every month.

(i) shall not leave the territory of Gujarat without prior permission of the concerned trial court.

8. 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.

9. 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.

10. At the trial, the concerned trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order.

11. Rule is made absolute. Direct service permitted.

(M. R. MENGDEY,J)

SHRIJIT PILLAI