

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER
CHARGESHEET) NO. 12704 of 2026**

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SHAHROKH @BHURO YUSUFBHAI PATHAN
Versus
STATE OF GUJARAT

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Appearance:

MR. KULDEEP D VAIDYA(7045) for the Applicant(s) No. 1

MR VINAY VISHEN, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 15/07/2026

ORDER

[1.0] RULE. Learned APP waives service of rule for the respondent-State.

[2.0] The present application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with **FIR being C.R.No. 11198001240017 of 2024 registered with Nilambaug Police Station, District Bhavnagar** for the offence punishable under Sections 406, 420, 465, 467, 468, 471, 186 and 34 of the Indian Penal Code, 1860 as well as under Sections 66(c) and 66(d) of the I.T. Act, 2000.

[3.0] Learned advocate appearing on behalf of the applicant submits that applicant is innocent and has been falsely implicated in the offence. Applicant is having no past antecedents. It is submitted that investigation is over and charge-sheet is filed. Similarly situated co-accused has been enlarged on bail by the co-ordinate bench of this Court on the ground of delay and therefore he submits that, considering the nature of the offence, the applicant may be enlarged on regular bail on the ground of parity by imposing stringent conditions.

[4.0] Learned APP appearing on behalf of the respondent-State has opposed the present application and requested to dismiss the present application for

regular bail on the ground that the applicant is very much involved in the present offence and considering the gravity of offence, no case is made out to entertain present bail application. Therefore, present application does not deserve 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 application 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. Following aspects have been considered:

- (1) Investigation is over and charge-sheet is filed;
- (2) Applicant is behind the bar since 20.02.2024;
- (3) There is nothing to be recovered or discovered from the applicant;
- (4) Prima facie, it appears that applicant has undergone incarceration for more than two years and that the prosecution has cited as many as 150 witnesses, out of whom only 18 witnesses have examined and 17 witnesses have been dropped. Approximately more than 100 witnesses are yet to be examined.

- (5) Considering the fact that the trial is in a snail's pace and that a direction was given by the Hon'ble Supreme Court to conclude the trial within six months, in the co-accused matter in the case of Jatin @ Jalaram Prafulbhai Kakkad vs. The State of Gujarat in Special Leave to Appeal (Crl.) No.2103 of 2025 on 05.08.2025, no substantial progress has been made.
- (6) Without discussing further on merits, on the ground of delay, as the a speedy trial is a fundamental right of an accused and on the same ground, the co-accused have also been released on bail, the benefit of parity required to be given on the ground of delay.

[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 application deserves consideration.

[8.0] In the facts and circumstances of the case and considering the nature of the allegations made against the applicant 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 applicant on regular bail. Hence, the present application is **allowed**. The applicant is ordered to be released on regular bail in connection with **FIR being C.R.No. 11198001240017 of 2024 registered with Nilambaug Police Station, District Bhavnagar** 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/she 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 every month for a period of six months between 11.00 a.m. and 2.00 p.m.;
- (f) furnish the **Aadhaar card, email ID/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/contact number** without prior permission of Trial Court;
- (g) not to indulge in any illegal activity failing which learned trial Court shall issue warrant and cancel the bail of the applicant.

[9.0] 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 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 applicant on bail.

[12.0] Rule is made absolute to the aforesaid extent. Direct service is permitted.

SUCHIT

(HASMUKH D. SUTHAR,J)