

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL (REGULAR BAIL - AFTER CHARGESHEET) NO.
1371 of 2026**

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NAGJIBHAI KHODABHAI SAGATHIYA

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR VIRAT G POPAT(3710) for the Appellant(s) No. 1

MR VATSAL M PATEL(13752) for the Opponent(s)/Respondent(s) No. 2

MR ROHAN RAVAL, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 23/07/2026**ORDER**

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

[2.0] Being aggrieved and dissatisfied by the order of the learned Sessions Court, Botad, dated 02.06.2026 passed in Criminal Misc. Application No.356/2026, whereby the learned Sessions Court has dismissed the bail application, present appellant has filed this appeal under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocity Act") with a prayer to quash and set aside the said order and release the applicant on regular bail in connection with **FIR being C.R. No.11190005260020 of 2026, registered with Paliyad Police Station, Botad**, for offence punishable under Sections 103(1), 109(1), 118(1), 115(2), 352, 351(2), 351(3), 189(2), 191(2), 191(3), 190 and 61 of BNS, Section 135 of the Gujarat Police Act and Sections 3(1)(r), 3(1)(s) and 3(2) (v) of Schedule Caste and Schedule Tribes (Prevention of Atrocity) Act.

[3.0] Learned advocate appearing on behalf of the appellant submits that appellant is innocent and has been falsely implicated in the offence. Investigation is over and charge-sheet has been filed. He is arrested on 24.01.2026. The applicant is senior citizen and has nothing to do with the alleged offence. Allegation made in the FIR is that, nephew of the applicant eloped with one girl who happens to be nearer relative of the complainant side and due to this incident took place. The applicant has not caused any injuries to the deceased, but he has assaulted one witness Hirabhai and has sustained simple injury. Now he is discharged from the hospital and out of danger. It is a case of cross FIR. It is further stated that the appellant is innocent and has been falsely implicated in the present case. He has not committed any offense as alleged in the FIR. The appellant has no past antecedent except his name is subsequently involved in the offence of POCSO originally registered against the nephew of the applicant. 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 and Mr. Patel, learned counsel for the complainant have opposed the present appeal and submitted that, the applicant side persons were provoked and came to the house of the complainant with deadly weapons and assaulted the complainant and other witnesses/victims. Prima facie material is collected and the applicant was very much present in the said incident and caused serious injuries and mother of the complainant succumbed to the injuries. 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. Following aspects have been considered:

- (1) Investigation is over and chargesheet has been filed;
- (2) Appellant is behind the bar since 24.01.2026;
- (3) Nothing is required to be recovered or discovered from the appellant.
- (5) There is no possibility to conclude the trial in near future.
- (6) Appellant has no past antecedent.
- (7) The alleged incident took place on 15.01.2026, and the FIR came to be lodged on 16.01.2026. According to the prosecution, the applicant caused injuries to Hirabhai, who sustained only simple injuries, and did not inflict any fatal blow upon the deceased. It is the case of the applicant that he reached the place of occurrence subsequently, and that the present case arises out of a cross-FIR. The genesis of the incident appears to be that the daughter of the

complainant had eloped with the nephew of the applicant. The complainant suspected that the son of the applicant had facilitated the said elopement. Aggrieved by such suspicion, the applicant and other accused allegedly went to the house of the complainant and assaulted the complainant and his family members. A perusal of the investigation papers reveals that the applicant is alleged to have caused injuries only to the witness Hirabhai and not to have inflicted any fatal injury upon the deceased. Whether there existed any conspiracy or common object is a matter to be determined during the course of trial. However, for the limited purpose of deciding the present bail application and considering the submissions advanced by the rival parties, this Court has made the aforesaid observations without expressing any opinion on the merits of the case.

- (8) The injured witness is now out of danger and has been discharged from the hospital.
- (9) As regards the contention advanced by the learned counsel for the complainant that the applicant has one past antecedent, it deserves to be noted that the alleged antecedent pertains to an FIR registered under the POCSO Act in connection with the elopement of the complainant's daughter with the nephew of the applicant. Subsequently, on the basis of suspicion, the applicant came to be arraigned as an accused in the said offence. Since the parties in both cases are the same and the alleged antecedent arises out of the same events, the said FIR cannot at this stage be treated as a criminal antecedent against the applicant for the purpose of deciding the present bail application.

[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**.

[8.1] Accordingly, impugned order of the learned Sessions Court, Botad, dated 02.06.2026 passed in Criminal Misc. Application No.356/2026 is hereby quashed and set aside and the appellant is ordered to be released on regular bail during the pendency of trial in connection with **FIR being C.R. No.11190005260020 of 2026, registered with Paliyad Police Station, Botad**, 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;
- (h) not to enter into Village Turkha, District Botad for a period of six months except for marking presence before the concerned police station and/or for attending Court;**

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

(HASMUKH D. SUTHAR,J)

SUCHIT