

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE
CHARGESHEET) NO. 14785 of 2026**

=====

KEVAL BHARATBHAI PATEL

Versus

STATE OF GUJARAT

=====

Appearance:

MR JAL SOLI UNWALA, SENIOR ADVOCATE WITH MR. BHAGIRATH N
PATEL(9016) for the Applicant(s) No. 1

MR SM KIKANI, FOR MR. D.A. MORI(19016) for the Respondent(s) No. 1

MS VRUNDA SHAH AND MR HK PATEL, APP for the Respondent(s) No. 1

=====

CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 21/07/2026****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. 11210063260364 of 2026 registered with Singanpore Police Station, Surat City**, for the offences under Sections 316(5), 61(2), 336(2) and 336(3) of BNS.

[3.0] Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. It is submitted that the investigation is substantially complete and nothing remains to be recovered or discovered from the applicant. The applicant is neither a partner of the partnership firm nor connected with the business carried on in the name of 'Royal Castle' or 'La Mensa'. He has not played any direct or indirect role in the alleged offence. According to the FIR itself, the applicant has no connection with either of the partnership firms. Therefore, prima facie, the ingredients of the offence under Section 316(5) of the Bharatiya Nyaya Sanhita, 2023 are not made out against him. It is further submitted

that the applicant is not a party to any rent agreement or leave and license Agreement executed with the complainant. The dispute has arisen out of payment of rent relating to the hotel and is civil in nature. Though it is alleged that the complainant paid Rs.15 lakhs to the applicant and that the amount of the firm was misappropriated, the applicant denies these allegations. It is further alleged that accused No.1 forged documents in the name of the 'Royal Castle' partnership firm and executed the leave and license agreement. However, there is no material to show that the applicant participated or abetted the alleged acts or he acted with any criminal conspiracy. It is also submitted that disputes between the partners are already pending before the competent Civil Court. The Trial Court has directed the parties to abide by its orders, and the renewal of the leave and license Agreement is also subject to the outcome of the pending civil proceedings. In these circumstances, it is submitted that the applicant has not committed any offence and is entitled to be released on regular bail.

[4.0] Learned counsel for the complainant has opposed the present application and submitted that the complaint has been registered against the accused persons, including the present applicant at Singanpore Police Station, Surat. It is submitted that accused No.1 was known to the complainant for several years, as they were residents of the same society. In the year 2020, accused No.1, his wife, and the other accused decided to start a restaurant business, in which the complainant invested his money. It is further submitted that accused No.1 intended to obtain land on lease from the applicant's grandfather, as accused No.1 and the applicant were close friends. Accordingly, land bearing Survey No.70/01-72, T.P. No.50, F.P. No.51 was taken on lease for a period of 10 years, and a lease agreement dated 06.10.2020 was executed by the applicant's grandfather in favour of accused No.1. After obtaining the land on lease, the complainant invested about Rs.1.90 crore for setting up restaurant named "La Mensa". Thereafter, on 04.10.2022, a partnership firm named "Royal Castle" was constituted between accused No.1, his wife Ankita, Hareshbhai, and Sarlaben Sorathiya

for running the restaurant. Since the partnership firm had not been formed at the time of execution of the first lease deed, it was agreed that the lease would initially be executed in the name of accused No.1, though the leasehold rights were intended to vest in the partnership firm. It is further submitted that after the death of the applicant's grandfather, his legal heirs, including the present applicant, executed another lease deed dated 15.11.2022 in favour of accused No.1 as partner of the firm "Royal Castle". Thereafter, to expand the business by constructing "Apricoat Dome" and other facilities on the remaining land, the complainant invested additional Rs.8.50 crore. As the business required further funds, the partnership firm obtained a mortgage loan of Rs.2.25 crore from Bank of Baroda, for which the complainant mortgaged his personal property worth Rs.1.50 crore as security. It is submitted that the complainant has been paying the monthly loan installments about Rs.2.50 lakh to Rs.3 lakh till date. According to the complainant, accused No.1 had invested only Rs.60 lakh in the business but is now claiming ownership over the entire business. It is further submitted that when the complainant requested a copy of the original lease deed, accused No.1 supplied him with a notarized copy of the lease deed dated 06.10.2020 along with the subsequent lease deed dated 15.11.2022. However, when the complainant visited the restaurant office, he found different lease deeds from those earlier provided to him. This according to the complainant shows that accused No.1 had created different lease documents with the intention of taking control of the business worth about Rs.13.50 crore in connivance with the present applicant, who is one of the landowners. It is further alleged that accused No.1 prepared forged lease deeds and that the present applicant actively abetted the offence. It is alleged that the applicant received Rs.3 lakh from the partnership firm and, in furtherance of the criminal conspiracy, the accused persons misappropriated an amount of Rs.49.58 lakh. On these allegations, the present FIR came to be registered. It is submitted that the investigation is still in progress and that the conduct of accused No.1 clearly demonstrates an intention to take over the entire business. Therefore, it is prayed that the

present application for regular bail be rejected.

[4.1] Learned APP appearing on behalf of the respondent-State has opposed the present application, adopted the arguments made by learned counsel for the complainant 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 criminal conspiracy with accused No.1, no case is made out to entertain present bail application. Chargesheet is yet to be filed. Further, the applicant is having past antecedent and if he is released on bail, possibility cannot be ruled out that the applicant will flee from justice and tamper with the evidence. 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. From the record, it appears that the present applicant is not a partner of either of the two firms, namely Royal Castle or La Mensa. The allegation against the applicant is that he was a friend of accused No.1 and, therefore, the land was leased for a period of 10 years. The record further shows that the dispute has

arisen in relation to the partnership firm Royal Castle. It is alleged that the applicant received an amount of Rs.3 lakh from the firm's account through a voucher. It is also the case of the complainant that, since the accused failed to pay the rent, the applicant sought to terminate the leave and license agreement and recover possession of the leased property. In this regard, a civil suit is already pending between the parties. Prima facie, this Court is of the view that the dispute arose qua partnership firm and the lease transaction relating to the property. The applicant's role appears to be confined to the leased property. The dispute is essentially civil in nature and is already the subject matter of pending civil proceedings. Further, none of the offences alleged against the applicant is punishable with death or imprisonment for life. The investigation is substantially over, nothing remains to be recovered or discovered from the applicant, and the case is based mainly on documentary evidence. In these circumstances, this Court is of the opinion that the present application deserves to be considered.

[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. 11210063260364 of 2026 registered with Singanpore Police Station, Surat City** 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 a week till filing of the chargesheet and after filing of the chargesheet, mark presence before the concerned police station once in a month for a period of six months;
- (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.

(HASMUKH D. SUTHAR,J)

SUCHIT