

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER
CHARGESHEET) NO. 14535 of 2026**

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SHAHBAZ @SAHEBAZ JAFARBHAI QURESHI

Versus

STATE OF GUJARAT

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Appearance:

MR VIRAT G POPAT with MS SHIVANGI D MADHAD(13116) for the Applicant

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

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 19/08/2026****ORDER**

[1.0] **RULE.** Learned APP waives service of notice of Rule for and on behalf of the respondent – State of Gujarat.

[2.0] Present application is filed by the applicant under Section 483 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short “BNSS”) seeking regular bail in connection with FIR being **C.R. No.11203023260055 of 2026** registered with ‘**A**’ **Division Police Station, District Junagadh** for the offence under Sections 3(1)(ii), 3(2) and 3(4) of the Gujarat Control of Terrorism and Organized Crimes Act, 2015 (for short “GUJCTOC Act”).

[3.0] Learned advocate appearing for the applicant has submitted that the applicant is innocent and is falsely enroped in the offence and provisions of GUJCTOC Act are wrongly invoked. Further, five offences have been considered and relied upon by the prosecution to invoke the provisions of the GUJCTOC Act and out of the said five offences, in one offence the applicant is already acquitted and four offences are pending and further one offence is registered in

connection with cyber crime and which is not committed as a member of organized crime syndicate. He has further submitted that the applicant has neither indulged in any unlawful activity nor is the member of syndicate. He has also submitted that nor any trigger offence is registered invoking the provisions of the GUJCTOC Act. Further, charge-sheet is filed and now nothing is required to be recovered or discovered from the present applicant. He has also argued that there is no specific allegation against the present applicant and the five offences on the basis of which provisions of GUJCTOC Act have been invoked cannot be considered for deciding the present application seeking regular bail in connection with offences under the GUJCTOC Act since *prima facie* offence under the GUJCTOC Act is not made out and therefore, question does not arise to tamper with the evidence since investigation is over and evidence is already collected by the investigating agency. Further, the applicant is behind the bars since 21.01.2026 and commencement of trial would take its own time. Applicant is ready and willing to join the investigation and no any such serious offence is registered against the applicant and there is not an iota of evidence which suggests that the present applicant is continuously engaged in any unlawful activity. Therefore, he has submitted that, considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

[4.0] Learned Additional Public Prosecutor 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 present applicant is the member of Gambler Gang and accused Nos.1 to 4 in furtherance of their common intention of the organized crime syndicate have indulged in unlawful activities and

since last 10 years, in the Junagadh City they are indulging in body related offences and offences of extortion, ransom, Arms Act, Damage to Private Property, cyber crime and economic offences also pursuant to which number of complaints have been registered against the said gang. The leader of the said Gang is Aslam @ Lalo Ibrahimbhai @ Gambler Qureshi and against Abbas Ibrahim @ Gambler Qureshi, 10 offences have been registered during the period 2015 to 2025 and against the present applicant, during the year 2018 to 2025, 5 offences have been registered and 8 offences have been registered against accused No.4 and in last ten years, total 14 offences have been registered against this gang and in connection with all the offences, charge-sheets have been filed. Applicant is arrested by way of transfer warrant and to invoke the provisions of the GUJCTOC Act, five offences have been considered since the applicant has remained active and continuously indulged in unlawful activities. Statement of witnesses under Section 183 of the BNSS have been recorded which clearly shows the involvement of the present applicant. After collecting sufficient evidence, charge-sheet is filed. He has further submitted that five offences registered against the applicant on the basis of which provisions of the GUJCTOC Act have been invoked are serious one including attempt to murder, causing grievous hurt, under Arms Act, wrongful confinement, rioting, interference in duty of public servant and breach of public tranquility and solitary offences have been registered. After implementation of the GUJCTOC Act, three offences are registered and prior to that, two offences have been registered against the present applicant. Out of the same, in three offences, all the members of the said gang are arraigned as accused and applicant is the member of the said gang. In one offence, present applicant is acquitted but in four offences, trial is still going on. He has

submitted that if the applicant is released on bail then the possibility of tampering with evidence cannot be ruled out. Hence, he has requested to dismiss the present application since the applicant is habitual offender and indulges in continuous criminal activities.

[5.0] I have heard the learned advocate appearing for the respective parties at length and perused the papers produced on record.

[6.0] Perusing the investigation papers it appears that it is the case of prosecution that the applicant along with co-accused is alleged to have hatched conspiracy and formed unlawful assembly and also alleged to have been equipped and possessed with lethal weapons and alleged to have caused grievous and severe fatal injuries to the complainant and prosecution witnesses and further alleged to have threatened prosecution witnesses and protective witnesses to face dire consequences. It is further case of the prosecution that, the applicant along with co-accused is member of the "organized crime syndicate" and the present applicant is proactive member who is involved in various unlawful activities and in offences like attempt to commit murder, grievous hurt, abduction, extortion, loot, Damage to property, Cyber Crime, Arms Act, obstruction in performing duty to the government servant, offence with regards to body etc. since last more than 10 years. Thus, due to high headed activities and involvement in severe crimes and fear and apprehension in the mind of public at large, no citizens, complainant, victims come forward to lodge the complaint against the present applicant-accused who is otherwise rather impressing upon public as a bullied and dangers to the society. In continuation of the statements and allegations, the present applicant along with co-accused is alleged to have involved in several cases pertaining to the persons and properties and the cases

against them are pending who after being released on bail/furlough/temporary bail and otherwise are also alleged to have been threatening the prosecution witnesses and protective witnesses and alleged to have extorting money. It is further the case that the applicant is alleged to have committed offences for which 5 FIRs have been filed against the applicant. It is alleged that the present applicant is the member of Gambler Gang and against four common accused, four offences are registered in last 10 years. To invoke the provisions of the GUJCTOC Act, under Section 2(1)(c) of the GUJCTOC Act i.e. "continuing unlawful activity" means a cognizable offence punishable with imprisonment for a term of three years or more, undertaken either singly or jointly, as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than charge-sheets have been filed before the competent Court within a period of 10 years and that Court has taken the cognizance of such offence. Herein, ingredient of section 2(1)(c) of the GUJCTOC Act is satisfied.

[6.1] Now, so far as triggering offence for invocation of GUJCTOC Act is concerned, section 2(1)(d) of the GUJCTOC Act defines "economic offences" which covers ponzy schemes, multi-level marketing schemes with a view to defraud the people at large for obtaining the monetary benefits or large scale organized betting in any form. Further, section 2(1)(e) of the GUJCTOC Act defines "organized crime" which means any continuing unlawful activity and terrorist act including extortion, land grabbing, contract killing, economic offences, cyber crimes having severe consequences by an individual, singly or jointly, either as a member of an organized crime syndicate or on behalf of such syndicate. Herein, present applicant is also involved in cyber crime offence. Thus, it is clear from the record that after promulgation of

the GUJCTOC Act, present applicant remained in continuous unlawful activities. Even, statement of witnesses under section 183 of the BNSS have been recorded. Against the said Gambler Gang, 14 offences have been registered and all the members are found to be habitual in committing serious unlawful activities ranging from attempt to commit murder, offence of grievous hurt, abduction, extortion, loot, damage to property, cyber crime, Arms Act, obstruction in performing duty to the government servant etc. Hence, considering the provision of sections 20(4)(b), 20(1) and 20(6) of the GUJCTOC Act, the Court must satisfy that there are reasonable grounds for believing that the applicant – accused is not guilty of committing such offence and that he is not likely to commit any offence while he is on bail.

[6.2] Perusing the material collected by the investigating agency and charge-sheet papers, it is amply clear that even after filing of the charge-sheet in connection with the present offence, applicant has indulged in continuous illegal activity and if the applicant is released on bail, possibility of continuing such illegal activities on the part of the applicant cannot be ruled out. In this regard, reference is required to be made to the decision of the Hon'ble Supreme Court in the case of **Zakir Abdul Mirajkar vs. The State of Maharashtra & Ors.** reported in **2022 SCC OnLine 1092** wherein it has been held that bail in offences under MCOCA / herein GUJCTOC is subject to strict statutory and constitutional limits and that the Court must balance the right of the accused with the need to protect public safety and integrity of judicial process.

[6.3] One more aspect which is required to be considered is that statutory investigation period under the BNSS is yet to be over and so far concept of the bail is concerned, purpose of the bail is not a

punitive but a preventive. While granting bail, the Court has to take care of the availability of the accused at the time of trial and second important aspect is that possibility of the tampering with an evidence of the prosecution. Further, while granting bail, the Court has to satisfy itself about the interest of prosecution. One of the criteria which is required to be considered while considering bail is interest of prosecution witnesses. This Court is of the considered opinion that if the present accused is enlarged on bail, the possibility of accused misusing his liberty and tampering with evidence of prosecution and flight risk cannot be ruled out. At this stage, it would be apposite to refer to the decision of the Hon'ble Supreme Court in the case of **Ash Mohammad vs. Shiv Raj Singh alias Lalla Babu and Another** reported in **(2012)9 SCC 446**.

[6.4] The Hon'ble Apex Court has time and again held that the concept of liberty is not in the realm of absolutism but is a restricted one and no element in the society can act in a manner by consequence of which the life or liberty of others is jeopardized. Needless to emphasize, the sacrosanctity of liberty is paramount in a civilized society. However, in a democratic body polity which is wedded to the rule of law an individual is expected to grow within the social restrictions sanctioned by law. The individual liberty is restricted by larger social interest and its deprivation must have due sanction of law. In an orderly society an individual is expected to live with dignity having respect for law and also giving due respect to others' rights. It is a well-accepted principle that the concept of liberty is not in the realm of absolutism-but is a restricted one.

[7.0] For the foregoing reasons, this Court is of view that present is not a fit case to exercise discretion under Section 483 of the BNSS in

favour of the applicant. Accordingly, present application does not deserve any consideration and is hereby ***dismissed***.

[8.0] It is made clear that the observations made in the present order are tentative in nature and the learned trial Court shall decide the case of the applicant independently on its own merits without being influenced by the observations made in the present order. Rule is hereby discharged.

(HASMUKH D. SUTHAR, J.)

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