

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL (REGULAR BAIL) NO. 1479 of 2026**

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ANIL A.K.A SHAILESH BABUBHAI DESAI
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR. JIT P PATEL(6994) for the Appellant(s) No. 1
MR. KISHAN H DAIYA(6929) for the Opponent(s)/Respondent(s) No. 2
MR ADITYA JADEJA, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 11/08/2026

ORDER

1. ADMIT. Learned APP waives service of notice of Rule on behalf of respondent No.1 – State of Gujarat.

2. Present appeal is filed under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “Atrocity Act”) challenging the order dated 27.05.2026 passed by the 3rd Additional Sessions Judge & Special Judge (Atrocity), Patan in Criminal Misc. Application No.391 of 2026 whereby the learned Judge rejected the application filed by the present appellant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in connection with FIR being **C.R. No.11217006260192 of 2026 registered with Chanasma Police Station, Patan** for the offences punishable under Sections 316(4), 318(2), 351(3), 296(b), 54, 338, 339 and 61 of the Bharatiya Nyaya Sanhita, 2023 (For short “BNS”), sections 3(1)(r), 3(1)(s), 3(2)(v-a), 3(1)(z-a)(e) and 3(2)(5) of the Scheduled Caste and Scheduled Tribe (Prevention Atrocities) Act.

3. Learned advocate appearing on behalf of the appellant submits that appellant is innocent and has been falsely implicated in the offence and now nothing is required to be recovered or discovered. Chargesheet has been filed. Considering the nature of the offence, the appellant may be enlarged

on regular bail by imposing suitable conditions.

4. *Per contra*, learned APP as well as learned advocate appearing for the original Complainant have vehemently opposed the present appeal on the ground that appellant is very much involved in the offence. Hence, they have requested to dismiss the present appeal.

5. 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/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. I have heard the learned advocates appearing on behalf of the respective parties and perused the investigation papers. Following aspects have been considered:

- (i) appellant is in jail since 07.04.2026;
- (ii) investigation is over and charge-sheet is filed;
- (iii) nothing is required to be recovered and discovered from the appellant;
- (iv) commencement and conclusion of trial will take its own time;

(v) As per the case of the prosecution, the complainant is the owner of Juhi Petrol Pump, and the present appellant-accused was working as a Manager at the said petrol pump. It is alleged that, during the period from 2017 to 2025, the income of the petrol pump amounted to Rs. 1,25,83,545/-, and that the appellant misappropriated the said amount by transferring the same into his own account and the accounts of his relatives. It is further alleged that, while misusing his position as Manager, the appellant created forged documents and thereby committed the offence of forgery. In this regard, a complaint was registered.

(vi) The appellant is having no past antecedents;

6. 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.
7. 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. The appellant is ordered to be released on regular bail in connection with FIR being **C.R. No.11217006260192 of 2026 registered with Chanasma Police Station, Patan**, on executing personal bond of Rs.25,000/- (Rupees Twenty Five thousand only) with one surety of the like amount to the satisfaction of the

learned 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 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;*

- 8. 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.
- 9. 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.
- 10. 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.

Direct service is permitted.

KUMAR ALOK

(HASMUKH D. SUTHAR,J)