

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL (REGULAR BAIL - AFTER CHARGESHEET) NO. 2782 of 2025

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VISHWASKUMAR @ VIMAL CHATURBHAI JETHABHAI MAKWANA

Versus
 STATE OF GUJARAT & ANR.

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Appearance:

KURVEN K DESAI(7786) for the Appellant(s) No. 1

MS. SHIVANGI M RANA(7053) for the Opponent(s)/Respondent(s) No. 2

MS DHAWANI TRIPATHI, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 13/05/2026

ORDER

1. **Admit.** Learned APP waives service of notice of admission for the respondent-State.

2. Present appeal under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocity Act") for regular bail in connection with FIR being **C.R. No.11191004250215 of 2025 registered with Amraiwadi Police Station, Ahmedabad** for the offences punishable under Sections 108, 316(2), 318(4), and 54 of the Bharatiya Nyaya Sanhita, 2023 (for short "BNS") and Sections 3(2)(v), 3(2)(va), 3(1)(r) of the Atrocities Act.

3. Learned Advocate appearing on behalf of the appellant submits that the appellant has no connection with the alleged offence and has been falsely implicated therein. The appellant is in judicial custody since 07.05.2025 and, till date, charges have not been framed. Investigation is over and the charge-sheet has already been filed. Nothing remains to be recovered or discovered from the present applicant. It is further submitted that the co-accused, who have played a greater role than the present applicant, have already been protected by way of interim relief

and are on anticipatory bail. The applicant has no past antecedents. Considering the nature and gravity of the offence, it is prayed that the appellant may be enlarged on regular bail by imposing suitable terms and conditions.

4. Learned APP appearing on behalf of the respondent-State and the learned advocate for the complainant have opposed the grant of regular bail, looking to the nature and gravity of the offence. It is submitted that the present applicant is involved in the offence and his name is mentioned in the video clip. It is further submitted that the applicant had instigated the deceased to commit suicide. Therefore, it is prayed that the present appeal be dismissed.

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 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:

- (1) The appellant is in judicial custody since 07.05.2025;
- (2) Till the arrest of the applicant, charges have not been framed.
- (3) Investigation is over and the charge-sheet has already been filed.
- (4) The co-accused have already been protected by way of interim relief and are on anticipatory bail.
- (5) The allegations against the present applicant are that the deceased had taken a loan from the bank and had paid the amount to the accused persons, however, the accused persons were not ready to repay the said amount to the deceased for repayment of the bank loan.
- (6) In order to recover the amount, possession of the Swift car belonging to the deceased was taken by the present applicant along with one Kripalsinh and Dharmendrasinh.
- (7) Co-accused Dharmendrasinh was granted anticipatory bail from the coordinate Bench of this Court.
- (8) Merely on the basis of the availability of the FSL report/CD/video clip, the detention of the present applicant cannot be continued.
- (9) Now, nothing is required to be discovered or recovered from the accused and there is no possibility of the trial taking place in the near future;

(10) Speedy trial is a valuable right of the accused guaranteed under Article 21 of the Constitution of India. Hence, without entering into the merits of the case, this Court deems it appropriate to refer to the judgments of the Hon'ble Supreme Court in the cases of **(i) Mohd. Muslim @ Hussain v. State (NCT of Delhi)**, reported in AIR 2023 SC 1648, **(ii) Union of India v. K.A. Najeed**, reported in (2021) 3 SCC 713, **(iii) Chintan Rajubhai Pansaria v. State of Maharashtra**, reported in 2026 INSC 712, and **(iv) V. Senthil Balaji v. ED**, reported in 2024 INSC 739, and considering the long period of incarceration undergone by the applicant, the gravity of the offence, and the fact that the trial has remained pending for a considerable period, the applicant deserves to be enlarged on bail, as speedy trial is a fundamental right guaranteed to the accused under Article 21 of the Constitution of India; hence, the present appeal deserves consideration.

7. 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. In the facts and circumstances of the case and considering the nature of the allegations made against the appellant/s 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/s on regular bail. Hence, the present appeal is allowed. The appellants is/are ordered to be released on regular bail in connection with FIR being **C.R. No.11191004250215 of 2025 registered with Amraiwadi Police Station, Ahmedabad 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 the UIDAI Number, Contact Number/s, Passport Number (if he is having the passport), E-mail address and

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 indulge in any illegal activity or any similar type of offence. If the appellant is found in any illegal activity or any similar type of activity, then, concerned Investigating Officer shall have liberty to file an appeal for cancellation of bail against the present appellant.

In case of breach of any conditions, the concerned Trial Court shall have liberty to cancel the bail of the present appellant;

9. The authorities will release the appellant/s 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. 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 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.

(HASMUKH D. SUTHAR,J)

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