

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 2635 of 2025**

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RAVIBHAI SARDULBHAI DER
Versus
STATE OF GUJARAT

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Appearance:
MR RATHIN P RAVAL(5013) for the Applicant(s) No. 1
ROHAN SHAH, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 16/01/2026

ORAL ORDER

1. Heard learned advocate for the applicant as well as learned APP.

2. By way of present revision application the applicant original - accused herein has assailed an order dated 23.07.2025 passed by the learned 4th Additional Sessions Judge, Amreli in Session Case No.7/2025 below Exh-33 framing charge against the present applicant - accused for the offences punishable under Sections 111(2)(2), 111(3), 111(4), 238(B) of the Bharatiya Nyaya Sahnita, 2023 (BNS) read with Sections 66(C) and 66(D) of the IT Act, mainly on the ground that the date on which the offence was committed the BNS, 2023 was not in force and it came into effect only on 01.07.2024, whereas the alleged offences are prior to 01.07.2024, and has thus argued that the framing

of charge under BNS, 2023 is directly in conflict with in violation of the fundamental rights as enshrined under Articles 20 & 21 of the Constitution of India, more particularly, when the application of the crime committed was not in existence on the day of offence and hence, the applicant cannot be held responsible for such offence. Accordingly, it is urged that this application may be allowed as prayed for.

3. Per contra, learned APP submits that there is ample material on record to attract provisions of BNS, more particularly, when the offence itself is a continuing offence and squarely falls within the explanation of continuing unlawful activity of an organised crime. Under such circumstances, he prayed to reject the present application.

4. Heard learned advocate for the respective parties and perused the material on record.

4.1 This Court has perused the impugned order below Exh-33 in Sessions Case No.7 of 2025 whereby the learned Sessions Judge has framed the charges without entering into details of the niceties of law or fact. It transpires from the framing of the charge that the averments of continuing unlawful activity are missing. However, as per the

documents of investigation submitted by the learned APP for the perused, there is ample material to prove that the applicant was engaged in an organized crime and that the sections of BNS certainly apply. Be that as it may, the fact remains that such averments are missing in the charge and the charge has been framed without considering the said aspect.

5. In view of the above, this application deserves consideration. Accordingly, the same is allowed in part. The order passed below Exh-33 in Sessions Case No. 7 of 2025 dated 23.07.2025 impugned herein is quashed and set aside.

5.1 The learned Sessions Judge to freshly frame the charges against the present applicant after considering the paper of the charge sheet, more particularly, considering the aspect that sections of the BNS, 2023 are applicable in the facts of the case or not, and the framing of charge must reflect such application of the mind.

6. **Direct service** is permitted.

MOHD SAIF ULLAH

(P. M. RAVAL, J)