

(2025) 12 GUJ CK 0061

Gujarat High Court

Case No: R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 17253 Of
2025

Sahil Mukhtar Khan

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision: Dec. 3, 2025

Acts Referred:

- Bharatiya Nagarik Suraksha Sanhita, 2023-Section 483
- Bharatiya Nyaya Sanhita, 2023-Section 64, 64(2)(I), (m), 75(2), 351(3)
- Protection Of Children From Sexual Offences Act, 2012-Section 4, 6, 8, 10, 12

Hon'ble Judges: Nikhil S. Kariel, J

Bench: Single Bench

Advocate: Sahil Y Patel, Tahir M Khan, Jay Mehta

Final Decision: Allowed

Judgement

Nikhil S. Kariel, J

1. Heard learned advocate Mr.Patel appearing on behalf of the applicant and learned Additional Public Prosecutor Mr.Mehta appearing on behalf of the respondent-State and learned advocate Mr.Paras Sukhwani on behalf of the original Complainant through legal aid.

2. Rule. Learned APP waives service of rule on behalf of the respondent-State.

3. The applicant has filed this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for enlarging the applicant on Regular Bail in connection with FIR being Part- A C.R. No. 11210005250521 of 2025 registered with Athwalines Police Station, District : Surat, for the offence punishable under Sections 64, 64(2) (I), (m), 75(2) and 351(3) of the BNS read with Sections 4, 6, 8, 10 and 12 of the POCSO Act.

4. Learned advocate for the applicant would submit that considering the role attributed to the applicant, and nature of the allegation levelled, the applicant may be enlarged on regular bail. It is

further submitted that since the charge-sheet is filed no useful purpose would be served by keeping the applicant in jail for indefinite period. It is further contended that the applicant is ready and willing to abide by all the conditions that may be imposed by this Court if released on bail.

5. As against the same, learned Additional Public Prosecutor appearing for the respondent - State has vehemently objected to the grant of regular bail. Learned APP has submitted that looking to the nature of offence and the role attributed to the present applicant as coming out from the charge-sheet, this Court may not exercise the discretion in favour of the applicant and the application may be dismissed.

5.1. The submissions of learned APP have been adopted by the learned advocate Mr.Sukhwani, who would submit that the victim being a minor, her consent would not be of any consequence.

6. Having regard to the fact that the applicant has prayed for grant of regular bail, learned Advocates appearing on behalf of the respective parties do not press for further reasoned order.

7. I have heard learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered:-

(i) While it is true that the victim is aged around 16 years, yet, it would also appear that the applicant is aged 19 years, which is an aspect, which could not be overlooked at this stage ;

(ii) The fact of the victim and the applicant herein, having a relationship also could not be overlooked, more particularly, the fact of the relationship appearing from the statement of victim dated 23.05.2025 itself;

(iii) It would also appear in this regard that the victim had left from her home town, at the behest of the present applicant and had resided with applicant for quite some time, during which time the victim has conceived but later on an abortion was carried out and though the applicant having kidnapped the minor being the allegation in a separate FIR, yet considering the substantial period of living together, the said aspect also allaying any apprehension that there was any threat, force, or coercion involved;

(iv) Though learned advocate Mr.Sukhwani has vehemently submitted as regards the consent of the victim being immaterial as she is a minor, yet to this court, it would appear that at the stage, while exercising jurisdiction for considering the release of the applicant for regular bail, the said aspect may not have much of relevance in view of the above observations;

(v) The fact of the applicant having been arrested on 23.05.2025 and the IO having laid the charge-sheet;

This Court has taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation reported in [2012] 1 SCC 40.

8. In the facts and circumstances of the case and considering the nature of the allegations made against in the First Information Report, 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.

9. Hence, the present application is allowed. The applicant is ordered to be released on bail in connection with F.I.R. registered as Part- A C.R. No. 11210005250521 of 2025 registered with Athwalines Police Station, District : Surat, on executing a bond of Rs.10,000/- (Rupees Ten 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;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave the State of Gujarat without prior permission of the Sessions Court concerned;

[e] furnish the present address of residence to the I.O. and also to the Court at the time of execution of the bond and shall not change the residence without prior intimation to the I.O.;

[f] mark presence before concerned police station once a month for a period of three months;

10. 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 Court concerned will be free to take appropriate action in the matter.

11. 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.

12. At the stage of trial, the trial court shall not be influenced by any observations of this Court which are of preliminary nature made at this stage, only for the purpose of considering the application of the applicant for being released on regular bail.

13. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct service is permitted.