

**(2025) 12 GUJ CK 0038**

**Gujarat High Court**

**Case No:** R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 20599 Of  
2025

Shabir Kesar Nareja

APPELLANT

Vs

State Of Gujarat

RESPONDENT

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**Date of Decision:** Dec. 16, 2025

**Acts Referred:**

- Bharatiya Nagarik Suraksha Sanhita, 2023-Section 483
- Bharatiya Nyaya Sanhita, 2023-Section 3(5), 61(2), 303(2), 307

**Hon'ble Judges:** Nikhil S. Kariel, J

**Bench:** Single Bench

**Advocate:** Abid R Pathan, Divyangna Jhala

**Final Decision:** Allowed

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**Judgement**

Nikhil S. Kariel, J

1. Heard learned advocate Mr. Zubin Bharda with learned Advocate Mr. Abid R. Pathan with learned advantage Mr. A.A. Zabuawala appearing on behalf of the applicant and learned Additional Public Prosecutor Ms. Jhala appearing on behalf of the respondent-State.

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 C.R. No.11993001250239 of 2025 registered with Samkhiyari Police Station, District Kachchh East-Gandhidham, for the offence punishable under Sections 303(2), 307, 61(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

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.

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

i. The fact of the allegations being with regard to offence punishable under Sections 303(2), 307 and 61(2) of the BNS and whereas while it would appear that all other accused having been enlarged on regular bail and whereas the present applicants case, is urged to be considered differently by the learned APP on the ground that the applicant has 12 antecedents. It would appear in this regard that while the antecedents appear to be starting from 2014 to 2024 and whereas considering the fact that the role attributed to the present applicant is of having accompanied the other accused to the place of offence and whereas the more serious role to threatening the officials i.e. watchman etc. of the windmill, is not attributed to the present applicant.

ii. It also appears that the role of the present applicant is established on the basis of statement of the watchman, who is alleged to have seen the present applicant sitting on a front side of a jeep where the stolen articles were being transported.

iii. Considering that the present is a case of theft and whereas as it would not appear that any serious role attributable to the present applicant, therefore, though the present applicant has 12 antecedents of being involved in offences including serious offences, yet, this Court is inclined to consider the case of the applicant for grant of regular bail, more particularly as noticed hereinabove, all other accused except the present applicant having been released on regular bail.

iv. It is also submitted by learned APP Ms. Jhala that the stolen articles had been recovered at the instance of the present applicant and whereas to this Court it would appear that the same would fortify the contention that the present applicant may be part of the group which had stolen the material in question, yet, he was not part of the group which had threatened the personals of the windmill present at the site of the offence.

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

7. 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.

8. Hence, the present application is allowed. The applicant is ordered to be released on bail in connection with F.I.R. registered as C.R. No.11993001250239 of 2025 registered with Samkhiyari Police Station, District Kachchh East-Gandhidham, 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] not enter Kachchh District for a period of six months from the date of his release.

[f] mark presence once a month for a period of six months before the Maliya Police Station, District Morbi;

[g] furnish the proposed 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.

9. 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.

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 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.

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