



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL APPEAL (REGULAR BAIL - AFTER CHARGESHEET) NO.
3146 of 2025**

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NILESHBHAI JILUBHAI VAGHELA
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MS URVASHI K MEHTA(11469) for the Appellant(s) No. 1
MS. BHAVNA D ACHARYA(6406) for the Opponent(s)/Respondent(s) No. 2
MS VRUNDA C SHAH, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

**Date : 01/09/2026
JUDGMENT**

[1.0] ADMIT. Learned APP and learned advocate Ms. Bhavna D. Acharya waive service of notice of Admission for and on behalf of the respective respondents.

[2.0] Present appeal under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocity Act") challenging the judgment and order dated 18.10.2025 passed by the learned 4th Additional Sessions Judge, Rajkot in Criminal Misc. Application No.2995 of 2025 whereby the learned Judge rejected the application filed by the present appellant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in connection with FIR being **C.R. No.11208045240928 of 2024** registered with **Malviyanagar Police Station, Rajkot City** for the offences punishable under Sections 103(1), 117(2), 118(1) and 54 of the Bharatiya Nyaya Sanhita, 2023 (for short "BNS"); section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short "Atrocity Act") and section 135(1) of the Gujarat Police Act.



[3.0] Learned advocate for the appellant submitted that the appellant is not involved in the commission of offence and has been falsely enroped in the offence and investigation is over and charge-sheet is filed. Further, the applicant is behind the bars since 08.11.2024 and yet the charge is not framed and therefore, on the ground of delay in trial, the appellant is required to be enlarged on regular bail by imposing suitable terms and conditions.

[4.0] *Per contra*, learned APP appearing for the respondent – State has vehemently opposed the present appeal and stated that there is *prima facie* evidence against the appellant and if released on bail then there is no possibility to stand to trial by the appellant and there is possibility of tampering with the evidence and hence, she has requested to dismiss the present appeal.

[5.0] I have given thoughtful consideration to the arguments canvassed by learned advocates for both the sides.

[5.1] At the outset, it is to be noted that though the offence is serious one, till date charge is not framed and not a single witness is examined and the prosecution has cited as many as 47 witnesses and the appellant herein is arrested on 08.11.2024 and on the ground that the co-accused is absconding, trial is not proceeding further however, it is needless to say that in the event the co-accused are absconding, remedy is available with the prosecution under the BNSS and also with the trial Court but it appears that no one is interested in proceeding with trial and therefore, in the considered opinion of this Court, prosecution has no right to oppose the present appeal or to curtail the liberty of the appellant – accused by keeping him behind the bars for indefinite period.

[5.2] Even, perusing the report dated 29.12.2025 of the learned Sessions Judge, Rajkot it appears that charge is yet not framed due to abscondence of accused No.2 – Ashish @ Pungo Bharatbhai and the prosecution has cited



47 witnesses and not a single witness is examined till date and the appellant is languishing in jail since 08.11.2024. Thus, it appears that prosecution is not interested to proceed with the matter and once prosecution is not inclined in expeditious disposal of the trial, prosecution has no right to oppose the bail application on merits considering the fundamental right of the accused as regards speedy trial guaranteed under Article 21 of the Constitution of India and even otherwise till date charge is not framed and trial is moving at snail's pace and therefore, applicant cannot be kept behind the bars for indefinite period even considering the question of personal liberty under Article 21 of the Constitution of India as laid down by the Apex Court in the case of **Union of India vs. K.A. Najeeb** reported in **(2021) 3 SCC 713**; **Mohd. Muslim alias Hussain vs. State (NCT of Delhi)** reported in **2023 SCC OnLine SC 352** and **Pradeep Kumar @ Banu vs. State of Punjab [SLP (Cri.) No.18775/2025]**. 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**.

[6.0] Hence, the present appeal is allowed. The impugned order dated dated 18.10.2025 passed by the learned 4th Additional Sessions Judge, Rajkot in Criminal Misc. Application No.2995 of 2025 is hereby quashed and set aside and the appellant is ordered to be released on regular bail in connection with FIR being **C.R. No.11208045240928 of 2024** registered with **Malviyanagar Police Station, Rajkot City** on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that the appellant 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 India without prior permission of the concerned trial court;



[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 present address of 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 the concerned trial court;

[h] shall not take undue advantage of liberty for prolonging the trial by taking unnecessary adjournment;

[7.0] The authorities shall release the appellant only if the appellant 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. 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.

[8.0] At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order.

[9.0] Appeal is allowed accordingly. Direct service is permitted.

(HASMUKH D. SUTHAR, J.)

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