

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER  
CHARGESHEET) NO. 2586 of 2025**

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NILESHBHAI JAYANTILAL JOSHI

Versus

STATE OF GUJARAT

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Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1

MR. HARDIK S. SONI, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY****Date : 13/03/2025****ORAL ORDER**

1. 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. 11191066220723 of 2022 registered with Vasna Police Station, Ahmedabad City for the offences punishable under Sections 302 and 201 of the Indian Penal Code and Section 135 of the Gujarat Police Act.

2. Heard learned Advocate for the Applicant and learned APP for the Respondent – State.

Rule. Learned APP waives service of notice of Rule on behalf of the Respondent - State.

3. Learned Advocate for the Applicant has submitted that in the present offence, the investigation is over and charge sheet is filed. The Applicant is aged about 64 Years and has been arrested in connection with the present offence on 24.07.2022 and since then the Applicant is in the custody. The

Applicant happens to be father of the deceased. He submitted that the Applicant and his deceased son were residing in Ahmedabad, whereas, the other family members were living abroad. The deceased son of the Applicant was having vices of consumption of drugs and always used to demand money from the present Applicant, and therefore, there used to be frequent quarrels between the two. The investigating agency has recorded the statements of witnesses residing in the neighbouring houses, who, in their statements have stated that there used to be frequent quarrels between the Applicant and the deceased son over the issue of money. The Applicant being fed up with the conduct of his son had committed an offence in question. The trial may take a long time for its conclusion. Having regard to the period of incarceration and the age of the present Applicant, this Court may consider the case of the Applicant for grant of bail. He has further submitted that the Applicant has good reputation in the society and 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.

4. Per contra, learned APP has opposed the present application for grant of regular bail contending that the Applicant had committed the present offence in a well planned manner. The Applicant had purchased a chopper as well as polythene bags from the market for commission of the offence in question, wherein, the body parts of the deceased were packed by the present Applicant after the incident. The manner in which the offence was committed by the present Applicant indicates that it was not an act on part of the present Applicant committed out of frustration but it was a well planned murder. Learned APP has therefore submitted that looking to the nature of offence, this Court may not exercise the discretion in favour of the applicant and the Application may be dismissed.

5. Heard learned Advocates for the parties and perused the record. The investigation is over and charge sheet is filed. The present case brings forth an extraordinary and unprecedented circumstances before this Court. This is the case wherein the father i.e. the present Applicant is alleged to have brutally killed the deceased i.e. his own son. On the first blush the incident may appear to be a ghastly act committed by the present Applicant. However, the close perusal of the material available on record compels this Court to have a second thought.

6. The facts emerging on record indicate that the present Applicant and his son were residing in Ahmedabad whereas the other family members have settled abroad. The Applicant herein had chosen to remain behind in India with the deceased son for the support of the deceased son himself. However, the destiny had otherwise. The deceased son fell prey to several vices including drugs and alcohol. The deceased son was unemployed and always used to demand money from the father i.e. the Applicant. The statements of the witnesses, who are the neighbours, of the present Applicant, indicate that they frequently used to hear quarrelling sounds coming from the house of the present Applicant at wee hours, which indicates that there used to be frequent quarrels between the present Applicant and the deceased son. The material available on record indicates that the Applicant i.e. the father must have been fed up with the conduct of the son, and therefore, appears to have decided for his elimination and thus the present offence has taken place. The act alleged on part of the present Applicant *prima facie* appears to be an act out of sheer frustration. The age of the Applicant is 64 Years and is in custody since July 2022. The act alleged against the Applicant does not appear to be the result of a criminal mindset of the Applicant. Considering these aspects as well as the facts and circumstances of the case, the Application deserves consideration. This court has also considered the following aspects:

- (a) As per catena of decisions of Hon'ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. prima facie case, availability of Applicant accused at the time of trial and tampering and hampering with the witnesses by the accused.
- (b) That the learned Advocate for the Applicant has submitted that the Applicant Accused is not likely to flee away.
- (c) That the Applicant is in custody since 24.07.2022.
- (d) The law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. C.B.I. Reported in (2012) 1 SCC 40.**

7. Having heard the learned Advocates for the parties and perusing the record produced in this case as well as taking into consideration the facts of the case, nature of allegations, gravity of accusation, availability of the Applicant Accused at the time of Trial etc. and the role attributed to the present Applicant accused, the present Application deserves to be allowed and accordingly stands allowed. This Court has also gone through the FIR and police papers and also the earlier order passed by the learned Sessions Court where the learned Sessions Judge has disallowed the bail Application at initial stage. The Applicant Accused is ordered to be released on bail in connection with the aforesaid FIR on executing a personal bond of Rs.10,000/- with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions that he shall:

- (a) not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer or tamper with the evidence.
- (b) maintain law and order and not to indulge in any criminal activities.
- (c) furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of

executing the bond and shall not change the residence without prior permission of the trial Court.

(d) provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the 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 pm.

(f) file an affidavit stating his immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any.

(g) not leave India without prior permission of the Trial Court

(h) surrender passport, if any, to the Trial Court within a week. If the Applicant does not possess passport, shall file an Affidavit to that effect.

8. Bail bond to be executed before the Trial Court having jurisdiction to try the case. It would be open for the Trial Court concerned to give time to furnish the solvency certificate if prayed for.

9. If breach of any of the above conditions is committed, the Trial Court concerned will be free to issue warrant or take appropriate action according to law. The Authorities will release the Applicant forthwith only if the Applicant is not required in connection with any other offence for the time being.

10. At the trial, the concerned trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order.

11. Rule is made absolute. Direct service permitted.

**(M. R. MENGDEY,J)**

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