

Anurag Nilesh Babulal Barot vs State Of Gujarat on 14 February, 2025

R/CR.MA/3031/2025

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE
REGULAR BAIL - AFTER CHARGESHEET) NO. 3031 of
2025

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ANURAG NILESH BABULAL BAROT
Versus
STATE OF GUJARAT
=====

Appearance:

MR. PRANJAL PATEL(16267) for the Applicant(s) No. 1
MR. SAJID A BATADA(16357) for the Applicant(s) No. 1
MR. H.K.PATEL, ADDL. PUBLIC PROSECUTOR for the
Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE HASMUKH D.
SUTHAR

Date : 14/02/2025

ORAL ORDER

1. RULE. Learned APP waives service of rule for the respondent-State.

2. The present application is filed under Section 483 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with FIR being C.R. No.11216025240489 of 2024 registered with Santej Police Station, District - Gandhinagar, for the offence punishable under Sections 336(2), 336(3), 338, 339, 340(2), 316(2), 316(5), 318(2), 318(4), 319, 61(2) and 112 of the Bhartiya Nyaya Sanhita, 2023 (for short "BNS").

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3. Learned advocate appearing on behalf of the applicant submits that applicant is innocent and has been falsely implicated in the offence. Investigation is over and chargesheet has been filed. He submits that the present applicant - accused was working with accused Nos.1 to 3 and his role is telecaller and he has made a call and lured the investors impersonating himself as Ajay Verma from Shayam Stock Research Center. Thus, no money trail is found in his account and similar situated accused are already released on bail by this Court vide order dated 13.01.2025 rendered in Criminal Misc. Application No.744 of 2025. He, therefore submits that, considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Learned APP appearing on behalf of the respondent- State has opposed the present application and submitted that, the applicant is very much involved in the offence. Therefore, present application does not deserve any consideration.

5. While granting bail, the Court has to consider the involvement of the accused in the alleged offence, the jurisdiction to grant bail has to be exercised on the basis of the well settled principles having regard to the facts and circumstances of each case and the following factors are to be taken into consideration while considering an application for bail: (i) the nature of accusation and the severity of the punishment and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses and threat to the complainant or the witnesses;

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(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations are required to be considered.

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

(1) Investigation is over and chargesheet has been filed;

(2) Present applicant - accused was working with accused Nos.1 to 3 and his role is telecaller and he has made a call and lured the investors impersonating himself as Ajay Verma from Shayam Stock Research Center. Thus, no money trail is found in his account and similar situated accused are already released on bail by this Court vide order dated 13.01.2025 rendered in Criminal Misc. Application No.744 of 2025;

(3) The present applicant - accused is behind the bar since 26.09.2024;

(4) Nothing is required to be recovered or discovered from the applicant.

(5) As the co-accused has been granted bail, therefore, the present application requires consideration in view of the principle of parity laid down in the case of *Rameshbhai Batubhai Dhobi vs. State of Gujarat* NEUTRAL CITATION R/CR.MA/3031/2025 ORDER DATED: 14/02/2025 undefined Gujarat, reported in (1999) 3 GLR 1150.

7. 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 as well as in the case of *Gudikanti Narasimhulu And Ors vs. Public Prosecutor, High Court of Andhra Pradesh* reported in (1978)1 SCC 240. Obviously, the conclusion of trial will take time and keeping the accused behind the bars is nothing but amounts to pre-trial conviction and therefore, considering the celebrated principle of bail jurisprudence is that "bail is a rule and jail is exception" as well as the concept of personal liberty guaranteed under Article 21 of the Constitution of India, present application deserves consideration.

8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, 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. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being C.R. No.11216025240489 of 2024 registered with Santej Police Station, District - Gandhinagar, on executing a personal bond of Rs.25,000/- (Rupees Twenty-five Thousand only) with one local 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 NEUTRAL CITATION R/CR.MA/3031/2025 ORDER DATED: 14/02/2025 undefined liberty;

(b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not leave the State of Gujarat without prior permission of the Trial Court concerned;

(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 UIDAI Number, Contact Number/s, Passport Number (if he is having the passport), E- mail address and present address of his 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 Trial Court;

(g) not indulge in any illegal activity or any similar type of offence. If the applicant is found in any illegal activity or any similar type of activity, then, concerned Investigating Officer shall have liberty to file an application for cancellation of bail against the present applicant.

In case of breach of any conditions, the concerned Trial Court shall have liberty to cancel the bail of the present applicant;

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9. The authorities will release the applicant/s 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 Judge concerned will be free to issue warrant or 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 trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant/ on bail.

12. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(HASMUKH D. SUTHAR,J) Lalji Desai