

IN THE COURT OF SESSIONS JUDGE,
DAMAN.

O.Cri.Miscl.Appl. No.02/2026 CNR.No.UTDD010000032026

Ankush V/s. State
Order Below Exh.1
(Passed on 21/01/2026)

1. This application is filed by the applicants/original accused nos.1 to 9 under Section 408 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for short 'BNSS') seeking transfer of Regular Criminal Case No.177/2025 from the court of Judicial Magistrate, First Class, Daman (for short 'the trial court') to the court of Chief Judicial Magistrate, Daman.
2. The non-applicant/State vehemently opposed the application by filing its reply (Ex.4) and thereby prayed for its rejection.
3. Heard learned counsel Shri. Sameer Modasia for the applicants/original accused nos.1 to 9 and learned PP Shri. Hariom Upadhyay for the non-applicant/state. Perused the application, say and the record.
4. From perusal of the application it transpires that the applicants are arraigned as accused nos.1 to 9 in Crime No.39/2025 registered in Coastal Police Station, Kadaiya, Daman for the offence punishable under Sections 308 (7), 258, 238, 241, 140 (2), 115 (2) and 3 (5) of the Bhartiya Nayaya Sanhita, 2023 (for short 'the BNS'). After culmination of the investigation, the police filed charge-sheet against the applicants and in the said charge-sheet, the police dropped Section 140 (2) of the BNS.
5. The informant/victim being aggrieved of dropping of Section 140 (2) of the BNS, filed protest petition before the trial

court. The applicants, therefore, apprehend that the trial court has already recorded a positive finding about applicability of Section 140 (2) of the BNS in the present case, while deciding bail application and, therefore, has expressed its view about the issue which is in question in the protest petition filed by the informant/victim. The applicants, thus, prayed for transfer of the case.

6. Upon careful perusal of the record it transpires that the police machinery has had pressed into service Section 140 (2) inter alia other penal sections at the time of lodgment of the first information report in Crime No.39/2025. The investigating agency, however, dropped the said section from the charge-sheet which became the root of contention between the informant and the applicants/accused nos.1 to 9. However, the said controversy is set at rest by Hon'ble Bombay High Court in its order dated 16-12-2025 passed in Criminal Bail Application No.4499/2025. Even otherwise, the record reveals that the view expressed by the trial court was a *prima facie* view. The question of any prejudice, being caused to the applicants/accused nos.1 to 9, therefore, does not arise. The application in hand, thus, deserves rejection. Hence, I pass the following order.

O R D E R

The application is hereby rejected.

Place : Daman.
Date: 21/01/2026.

(Rajesh S. Tiwari)
Sessions Judge,
Daman.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment/order are same, word to word, as per the original Judgment/order.

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| Name of the Stenographer | : | Dhiraj S. Gajbhiye, Stenographer, H.G |
| Court | : | District & Sessions Court |
| Date | : | 21.01.2026 |
| Judgment/Order signed by the Presiding Officer on | : | 21.01.2026 |
| Judgment/Order uploaded on | : | 02.02.2026 |