IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL - AFTER CHARGESHEET) NO. 14951 of 2026

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HEMANT DAYARAM BARKADE
Versus
STATE OF GUJARAT

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Appearance:
MR HIRENKUMAR M NIYALCHANDANI(9959) for the Applicant(s) No. 1
MR HK PATEL, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 03/08/2026

ORDER

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

2. The present successive bail application is filed under Section 483 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short “BNSS”) for regular bail in connection with FIR C.R. No.11208057260009 of 2026 registered with Cyber Crime Police Station, Rajkot City for offence punishable under Sections 318(4) of the Bharatiya Nyaya Sanhita, 2023 (for short “BNS”) and Section 66D of the Information Technology Act, 2000.

3. Learned advocate for the applicant submitted that the charge-sheet has already been filed and that the present application is a successive bail application filed after filing of the charge-sheet. It is submitted that the present applicant is a law-abiding citizen and is associated with an NGO namely, “Koyan The Vision Samaj Sewa Samiti”, wherein he is serving as one of the office bearers. The applicant is operating the current account

of the said NGO jointly with other office bearers with the Central Bank of India. It is submitted that the present applicant has no connection whatsoever with the alleged offence. The allegation against the applicant is that the bank account of the said NGO was used for carrying out cyber fraud. It is submitted that, as per the case of the prosecution, an amount of ₹9.75 lakhs was diverted from the account of the complainant's firm, namely Radhika Steel Firm, to the account of the said NGO and that the present applicant had received some amount by way of commission/kickback from the said transaction. Learned advocate for the applicant further submitted that, upon coming to know about the alleged unauthorized transaction, the applicant immediately approached the concerned bank officer and informed him about the unauthorized transaction and the alleged fraud committed through the bank account of the NGO. It is submitted that though the applicant is alleged to have received some commission, the said bank account does not belong exclusively to the applicant and was being operated jointly with other office bearers of the NGO. It is further submitted that the co-accused, who is similarly situated, has already been released on bail and, therefore, the applicant may also be extended the benefit of parity. Considering the fact that the charge-sheet has already been filed, the role attributed to the applicant, and the principle of parity, learned advocate for the applicant requested that the present application may be allowed and the applicant may be enlarged on bail..

4. Per contra, learned APP vehemently opposed the present application and submitted that the present applicant is named

in the FIR and is prima facie found to be actively involved in the alleged cyber fraud. It is submitted that the applicant, being the Secretary of the NGO, namely Koyan The Vision Samaj Sewa Samiti, facilitated the use of the bank account maintained in the name of the NGO for carrying out large-scale cyber fraud. Learned APP submitted that, in connection with the said bank account, as many as 21 complaints have been received on the NCRP portal. During the course of investigation, it was revealed that the co-accused was managing the bank account maintained in the name of "Koyan The Vision Samaj Sewa Samiti" and had permitted the said account to be used for unlawful activities. It is further submitted that, from the transactions carried out through the said account, an amount of approximately ₹9.75 lakhs was transferred to the account of the present applicant. Learned APP further submitted that several other co-accused are yet to be arrested and that they are directly involved in the alleged cyber fraud activities. If the present applicant is released on bail, there is a possibility that he may flee from justice, particularly as he is a resident of Madhya Pradesh. There is also a possibility of tampering with the evidence and influencing the investigation, particularly when 12 accused persons are yet to be arrested. It is further submitted that a large-scale conspiracy has been hatched and an organized cybercrime operation has been carried out, wherein the present applicant has actively participated. Learned APP submitted that the co-accused who has been released on bail was attributed a limited role and had allegedly received only ₹1.50 lakhs by way of commission, whereas, in the account connected with the present applicant, transactions involving alleged cyber fraud of approximately

₹87.20 lakhs have been noticed. It is further submitted that, during the course of investigation, the amount involved in the alleged cyber fraud may further increase. Learned APP therefore submitted that, considering the nature and gravity of the offence, the large-scale cyber fraud involved, the role attributed to the present applicant, the number of complaints registered on the NCRP portal, and the fact that several accused persons are yet to be arrested, the investigation is still at a crucial stage. It is, therefore, urged that no case is made out for extending the benefit of bail to the present applicant and the application may be dismissed.

5. Heard the learned advocates appearing for the respective parties and perused the investigation papers.

6. While deciding bail application, 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; (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.

7. Having heard the learned advocates for the parties and having gone through the record, it appears that it is alleged that the present applicant, along with the co-accused, added the complainant to a WhatsApp group namely, "*A13 Stock Sharing Group*", by impersonating themselves as employees of Franklin Templeton Group and assuring the complainant of high returns from stock market trading. It is further alleged that the accused persons induced the complainant to download an application namely, "SENDS INV" and, pursuant thereto, the complainant transferred an amount of ₹87.20 lakhs into different bank accounts. However, neither was the said amount returned nor did the complainant derive any benefit from the alleged investment, and thereby, the accused persons committed the offence of cheating against the complainant. In this regard, the complaint came to be registered.

8. During the course of investigation, it was found that the present applicant was associated with an NGO namely, Koyan The Vision Samaj Sewa Samiti, which maintained a bank account with the Central Bank of India. It was further found that the said bank account was used for unlawful activities and for transferring the amount involved in the alleged cyber fraud. An amount of ₹9.75 lakhs transferred by the complainant was credited into the said account, thereby conferring direct financial benefit upon the present applicant and facilitating the activities of the co-accused, who are stated to be absconding.

9. Further, during the course of investigation, it was revealed from the NCRP portal that 21 complaints pertaining to cyber fraud had been registered in connection with the said account from different parts of the country. It was also revealed that the present applicant had received commission from the proceeds of the alleged cybercrime. Thus, prima facie, the involvement of the present applicant in the alleged offence is found.

Merely because the charge-sheet has been filed, it cannot be said that the present applicant has no connection with the alleged offence, particularly when the material collected during the course of investigation prima facie indicates his involvement. The nature and gravity of the alleged offence, involving cyber fraud and a white-collar/socio-economic offence, as well as its impact on society, cannot be overlooked while considering the present application.

10. So far as the complaint dated 21.01.2026 is concerned, it appears that the same was filed in connection with the transaction dated 25.11.2025. Considering the increasing instances of cyber fraud, the Reserve Bank of India has issued directions to financial institutions and banks to remain vigilant and to report suspicious transactions in accordance with the applicable guidelines. In view of the same, the possibility cannot be ruled out that the present applicant, having knowledge of such practices and procedures, might have approached the concerned Branch Manager and submitted an application as a precautionary measure, with a view to creating a defence in the

event of any inquiry into the transactions. However, no formal complaint in respect of the alleged unauthorized transaction was registered by the present applicant. Further, on perusal of the investigation papers, there is nothing to indicate that the present applicant was not involved in the alleged cyber fraud or that he had no connection with the amount involved in the alleged offence. Therefore, the contention advanced by the learned advocate for the applicant that the applicant had already informed the bank about the alleged unauthorized transaction does not inspire confidence and cannot come to the aid of the present applicant.

11. The contention raised on behalf of the applicant seeking parity with the co-accused also does not deserve acceptance. Though the co-accused has been enlarged on bail, the role attributed to the said co-accused is materially different from that of the present applicant. The co-accused was attributed a limited role in the alleged cyber fraud, whereas, from the material collected during the course of investigation, the present applicant is found to be directly connected with the bank account of Koyan The Vision Samaj Sewa Samiti, which was allegedly used for routing the proceeds of the cyber fraud. An amount of ₹9.75 lakhs was credited into the said account and the present applicant is also alleged to have received commission from the proceeds of the alleged cybercrime. Further, as per the investigation, 21 complaints pertaining to cyber fraud have been noticed on the NCRP portal in connection with the said account. Thus, the role attributed to the present applicant is distinct and more serious than that of the co-accused who has been enlarged

on bail. Therefore, the present applicant cannot claim the benefit of parity merely on the ground that the co-accused has been released on bail. Consequently, the principle of parity is not attracted in the facts and circumstances of the present case. In this regard, reference may be made to the decisions of the Hon'ble Supreme Court in the cases of ***Tarun Kumar v. Enforcement Directorate*, reported in 2023 SCC OnLine SC 1486, and *Sagar v. State of U.P. & Anr.*, reported in 2025 INSC 1370**.

12. Since several co-accused are yet to be apprehended and their custodial interrogation is required for a proper investigation into the alleged cyber fraud, the possibility of the present applicant influencing the investigation, if released on bail, cannot be ruled out. Further, the offence involves electronic and volatile data, including online transactions, use of bank accounts for routing the alleged fraud amount, and other digital evidence, which requires proper preservation and investigation. Considering the financial nature and seriousness of the offence, the interest of the prosecution is also required to be kept in view. In this regard, this Court deems it appropriate to refer to the judgment of the Hon'ble Supreme Court in the case of ***State of Gujarat v. Mohanlal Jitamalji Porwal & Others*, reported in (1987) 2 SCC 364**, wherein it has been observed in paragraph 5 as under:

> *"The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate*

> *design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest."*

13. So far as the arguments advanced by the learned advocate for the applicant that the applicant be released as the charge sheet has been filed is concerned, another important aspect that needs to be considered is that mere filing of a charge sheet is not a sufficient ground to enlarge the accused on bail, as held by the Hon'ble Apex Court in the case of ***Virupakshappa Gouda and Another vs. The State of Karnataka, reported in (2017) 5 SCC 406 and*** **Serious Fraud Investigation Office vs. Aditya Sarda** reported in **2025 INSC 477**. If the applicant is released, the possibility of tampering with evidence cannot be ruled out, especially since the co-accused are absconding, and the volatile nature of the data could affect the integrity of the evidence.

14. In the present case, the allegation against the applicant is that the bank account of Koyan The Vision Samaj Sewa Samiti was used for routing the proceeds of the alleged cyber fraud, wherein an amount of ₹9.75 lakhs was credited into the said account and the applicant is alleged to have received commission therefrom. Further, 21 complaints pertaining to cyber fraud have been noticed on the NCRP portal in connection with the said account and several co-accused are yet to be apprehended. Therefore, if the applicant is released on bail, the possibility of

tampering with the electronic evidence or influencing the investigation cannot be ruled out. In this regard, reference may be made to the decision of the Hon'ble Supreme Court in ***Ash Mohammad v. Shiv Raj Singh alias Lalla Babu and Another*, reported in (2012) 9 SCC 446**.

15. The Hon'ble Supreme Court in the case of ***Serious Fraud Investigation Office Vs. Nittin Johari, reported in 2019 (9) SCC 165*,** has held that as under:

> *11. At this juncture, it must be noted that even as per Section 212(7) of the Companies Act, the limitation under Section 212(6) with respect to grant of bail is in addition to those already provided in the Cr.P.C. Thus, it is necessary to advert to the principles governing the grant of bail under section 439 of the Cr.P.C., 1973 Specifically, heed must be paid to the stringent view taken by this Court towards grant of bail with respect of economic offences. In this regard, it is pertinent to refer to the following observations of this Court in* ***Y.S. Jagan Mohan Reddy V. Central Bureau Of Investigation, 2013 7 SCC 439:-***
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>> *"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deeprooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
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>> *35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/ State and other similar considerations."*

> *This Court has adopted this position in several decisions, including Gautam Kundu v. Directorate of Enforcement (Prevention of Money Laundering Act), Government of India, (2015) 16 SCC 1, and State of Bihar v. Amit Kumar, (2017) 13 SCC 751. Thus, it is evident that the above factors must be taken into account while determining whether bail should be granted in cases involving grave economic offences."*

16. As submitted by learned APP, other co-accused are still absconder and out of reach. At this stage, it would be profitable to refer to the judgments of the Hon'ble Supreme Court in the case of ***Rakesh Mittal Vs. Ajay Pal Gupta @ Sonu Chaudhary & Ors, in Leave to Appeal (Cri.) No.19708/2025 dated 17.02.2026***, wherein the Hon'ble Supreme Court held as under:-

> *"We may note that the value of life and liberty to members of society is not limited only to their 'person' but would also extend to the quality of their life, including their economic well-being. In offences of a pecuniary nature, where innocent people are cheated of their hard-earned monies by conman, who make it their life's pursuit to exploit and feast upon the gullibility of others, the aforestated factors must necessarily be weighed while dealing with the alleged offenders pleas for grant of bail."*

17. Further, in the case of **CBI vs. V. Vijay Sai Reddy reported in (2013)7 SCC 452**, the Hon'ble Supreme Court observed in paragraph 34 as under:

> *"34. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the*

> *witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."*

18. Having regard to the nature and gravity of the offence, the specific role attributed to the present applicant, the substantial amount involved in the alleged cyber fraud, the applicant's alleged receipt of commission from the proceeds of the crime, the use of the NGO's bank account for routing the alleged fraud amount, and the fact that several co-accused are yet to be apprehended, this Court is of the considered opinion that no case is made out for exercising discretion in favour of the applicant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Accordingly, the present application fails and is hereby dismissed. Rule is discharged.

19. It is made clear that the observations made in the present order are tentative in nature.

(HASMUKH D. SUTHAR,J)

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