

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 12160 of 2025**

=====

DIPAK KISHORBHAI SALUNKE

Versus

STATE OF GUJARAT

=====

Appearance:

MR. KISHAN H DAIYA(6929) for the Applicant(s) No. 1

MR MANAN MEHTA, APP for the Respondent(s) No. 1

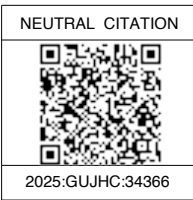
=====

CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 27/06/2025****ORAL ORDER**

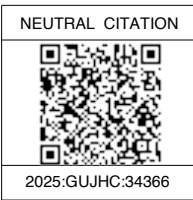
- 1) The present successive bail application is filed under Section 483 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with **FIR being C.R. No.11210015220232 of 2022** registered with **DCB Police Station, Surat City**, for the offence under Sections 121(A) and 120(B) of the Indian Penal Code, 1860.
- 2) Case of the prosecution is that, Dy. Commissioner of Police, Surat City, received secret information that one person namely Dipak Kishore Salunke (present applicant) having mobile Nos. [REDACTED] and [REDACTED] was operating Facebook and WhatsApp accounts and share confidential details and information of Indian Army to one accused Hamid, who was ISI Agent and residing at Karachi, Pakistan. After preliminary inquiry, the police personnel came to detail the present accused and upon search fro his Facebook and Whats App accounts, various chats and confidential details and information of Indian Army came to be found and for sending the same, he has received Rs.75,845/- from accused Hamid and other persons. In this regard, FIR came to be filed.



- 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. Trial would take long time as there are many witnesses. Nothing is required to be recovered from the applicant. The applicant is doing the business of garments and has not connected with the alleged activity. As alleged, no any photographs have been sent by the applicant as photographs are already available under the public domain. Considering the same, 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 facing serious charges and without change in circumstances, present successive bail application is filed. It is further submitted that, the applicant was in contact of Pakistani citizen, who impersonated himself as Poonam Sharma and in lieu of providing certain information, the applicant has received money in the account. He has further submitted that, he had arranged various sim cards for said Hamid and availed monetary benefits. There is prima facie case against the applicant who is involved in transferring money by way of hawala in different countries. Various WhatsApp chats and Facebook messengers were found, wherein the applicant was found interacting with Hamid. Even witnesses have supported the case of the prosecution. Even statements recorded under Section 164 of Cr.P.C, involvement of the applicant is found. Even other co-accused are yet to be intercepted and investigation is going on. Chargesheet has been filed only qua the applicant herein. In such circumstances, learned APP has requested not to allow present bail application.
- 5) Having heard learned counsel for both the sides and considering the material placed on record, it appears that based on secret



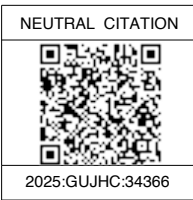
intelligence, the applicant was intercepted and upon search his mobile, more particularly, Facebook and Whats App accounts, various chats and confidential details and information of Indian Army came to be found and other conversations were found. Present applicant was found in the contact of one Hamid, who is actually Pakistani Citizen but having Facebook account in the fake name of Poonam Sharma. The applicant was found in the contact of ISI agents and he shared sensitive information of Indian Armed Force including the photographs and for that, he received money through Hawala. From the statement of one Noor Fatima @ Vahida recorded under Section 164 of the code, substantiate the allegation of money transaction. The present applicant was found to be involved in sharing movement of armed force vehicles in Pushkar and for that, he had received money. Money transactions were found between the applicant, Hamid and other persons. It is required to be noted that whatever the secret information and photographs sent by the applicant, are confirmed by the Army that such information are secret information and are not available for the public. Further, the said Facebook Account of Hamid, created in the fake name of Poonam Sharma was made in Pakistan. Applicant could not establish or prove any business transaction with the said Noor Fatima from whom the applicant has received money. Considering the role and allegations levelled against the applicant, it appears that question of national security is more important than the monetary gain and therefore, even if the applicant could not have received any money, then also, no case is made out to enlarge the accused on bail. Merely there is delay in trial is not a ground to grant bail application in such type of serious matter. Investigation qua other accused is still going on and if the applicant is enlarged on bail, then possibility cannot be ruled out to tamper the evidence.



6) It is required to be mentioned that merely the earlier application was withdrawn by observing at this stage does not mean that the Court was inclined to grant bail as and when he prefers. Further, there is no changed circumstances. Nonetheless, after filing of the chargesheet, it strengthens the case of the prosecution. In this regard, reference is made to the decision of the Apex Court in the case of **Virupakshappa Gouda & Anr. Vs. The State of Karnataka & Anr.** reported in **2017 (5) SCC 406** and **Navin Singh Vs. State of U.P.** reported in **2021 (2) SCC (Cri.) 809** as filing of chargesheet does not any manner lesser the allegation, but filing of chargesheet is only a cosmetic change. The Hon'ble Supreme Court has observed in the case of **Ram Govind Upadhyay vs. Sudarshan** reported in **2002 (3) SCC 598** held that, *"the accused has right to make successive application for grant of bail, but while entertaining a subsequent bail application, it is the duty of Court to consider the reasons and grounds, which persuade to take a view different from the one taken in the earlier application"*.

Here in the case on hand, the applicant failed to show any change in the circumstances.

7) The appellant is facing serious charge of providing sensitive information and photographs of Indian Army to ISI agent. During the investigation, the Investigating Officer was able to collect sufficient material and evidence suggesting a larger conspiracy involving ISI agents, posing a threat to national security with a nationwide impact and serious implications for the safety of citizens. Following the alleged incident, terrorist attacks occurred, and drone and other hostile activities were carried out in border areas by Pakistan. The applicant is alleged to have shared highly sensitive information related to border areas. Therefore, considering the unity, integrity, and security of the nation, personal liberty alone cannot be a sufficient ground to allow the present bail application, especially



when viewed in the context of larger societal interest. In cases involving grave charges and severe punishment, the Court may not exercise its discretion in favor of the accused..

- 8) In the above facts and circumstances and considering the observations on the legal aspect of the matter, this Court has absolutely no doubt that if applicant is released on bail, it would greatly harm further investigation qua other accused and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Having considered nature and seriousness of the charge, *prima facie* involvement of accused and possibility of tempering with evidences as trial is in progress, it does not appear to be just and proper to exercise the discretion in favour of the applicant and accordingly, the successive application for regular bail is dismissed. Rule discharged. However, the trial Court is directed to expedite the trial.

(HASMUKH D. SUTHAR,J)

SUCHIT