

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****CRIMINAL MISC.APPLICATION (FOR TEMPORARY BAIL) NO. 2 of 2026
In R/CRIMINAL APPEAL NO. 607 of 2023**

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ASHUMAL @ ASHARAM S/O THAUMAL SINDHI (HARPALANI)
Versus
STATE OF GUJARAT

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Appearance:

MR ND NANAVALI SENIOR ADVOCATE WITH MR ASHISH M DAGLI(2203)
for the PETITIONER(s) No. 1
MR HARDIK DAVE PUBLIC PROSECUTOR WITH MR MANAN MEHTA APP
for the RESPONDENT(s) No. 1

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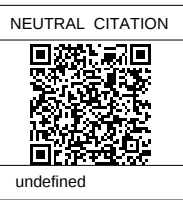
CORAM:HONOURABLE MS. JUSTICE GITA GOPI
and
HONOURABLE MR.JUSTICE L. S. PIRZADA

Date : 08/09/2026

IA ORDER
(PER : HONOURABLE MS. JUSTICE GITA GOPI)

1. The applicant has made a prayer to grant temporary bail for a period of 20 days submitting that he has been convicted by the judgment and order dated 31.01.2023 passed by the learned Sessions Judge, Gandhinagar in Sessions Case No.34 of 2014. The sentence imposed upon the applicant is as under:-

Sections	Sentences	Fine Amount	In-default
376(2)(c)	Life	Rs.10,000/-	1 year of S.I.
377	Life	Rs.10,000/-	1 year of S.I.
354	1 year of R.I.	Rs.1,000/-	3 months of S.I.

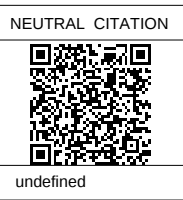


342	6 months R.I.	Rs.500/-	3 months of S.I.
357	1 year R.I.	Rs.500/-	1 month of S.I.
506(2)	1 year R.I.	Rs.1000/-	3 months of S.I.

2. The applicant, aggrieved by the judgment of conviction, has filed Criminal Appeal No.607 of 2023 before this Court and is pending for final hearing.

3. Learned Senior Advocate Mr.N.D. Nanavati appearing with learned advocate Mr.A.M. Dagli for the applicant submitted that the prayer has been made for temporary bail primarily on the ground that the applicant has been granted relief by the Hon'ble High Court of Judicature for Rajasthan at Jodhpur by an order dated 03.08.2026 passed in D.B. Civil Writ Petition No.14497 of 2026. The order granting first parole for 20 days upon furnishing personal bond in the sum of Rs.50,000/- with two sound and solvent sureties of Rs.25,000/- each to the satisfaction of the Superintendent, Central Jail, Jodhpur on the usual terms and conditions, would become redundant and the order so granted, would remain a paper order, if the present application is not considered.

4. Learned Senior Advocate Mr.Nanavati submitted that



the Hon'ble High Court of Rajasthan has observed in para (3) of the order that, during the period undergone of 13 years, 1 month and 24 days of incarceration, earlier when the applicant was released on interim bail, there is no case of misuse of bail on his part, nor there has been any instance of him causing danger to the society or to any witnesses. Thus, learned Senior Advocate Mr.Nanavati submitted that the Hon'ble High Court of Rajasthan has rightly observed that the apprehensions are misleading and figment of the imagination without any basis.

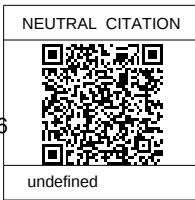
5. Reference has been made of the earlier orders, which are as per the following details:-

Order Dated	Particulars	Remarks
07.01.2025	SLP (CRI) No.15945 of 2024	The Supreme Court of India granted temporary bail till 31.03.2025.
28.03.2025	CRMA No.1 of 2025 Extension of temporary bail	The temporary bail of the applicant came to be extended for a period of 3 months.
27.06.2025	CRMA No.2 of 2025 in CRMA No.1 of 2025 Extension of temporary bail	This Hon'ble Court extended the temporary bail of the present applicant till 07.07.2025.



Order Dated	Particulars	Remarks
03.07.2025	CRMA No.2 of 2025 in CRMA No.1 of 2025 Extension of temporary bail	The present applicant temporary bail came to be further extended for a period of one month by this Hon'ble Court.
06.11.2025	CRMA No.4 of 2025 For Regular Bail / Suspension of Sentence	This Hon'ble Court was please to grant interim relief for a period of six months.
12.06.2026	CRMA No.1 of 2026	Vide order dated 30.04.2026 this Hon'ble Court was pleased to further extend the interim relief up to 15.06.2026 and directed matter be listed for further hearing on 12.06.2026. Meanwhile, pursuing to the judgement passed by the High Court of Rajasthan in Criminal Appeal 123 of 2018 the application had been withdrawn.

6. Learned Senior Advocate Mr.Nanavati submitted that after the order of the Hon'ble High Court of Rajasthan dated 03.08.2026, an application was moved on 11.08.2026 to the Inspector General of Police, Office of Prison & Correctional Administration, Gujarat State, Ahmedabad to grant first

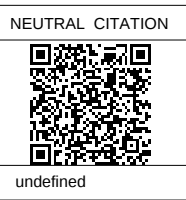


furlough leave and to issue order/N.O.C. in response to the letter issued by the Superintendent, Central Jail, Jodhpur (Rajasthan). Learned Senior Advocate Mr.Nanavati, referring to the reply of the Deputy Inspector General of Police, Office of Prison & Correctional Administration, Gujarat State, Ahmedabad dated 18.08.2026, submitted that the prayer was refused.

7. The contents of the reply dated 18.08.2026 to the applicant becomes relevant and are reproduced hereinbelow:-

“Apropos the subject cited above, it is to state that the prisoner Asharam alias Ashumal alias Asharam babu Thevardas Sindhi has been sentenced to life imprisonment by Hon. Add. Session Court, Gandhinagar - Gujarat on dated 31/01/2023 in connection with an offence under I.P.C Section 376(2)(g), 377, 354, 342, 357 and 506(2) in Sessions Case No. 34/2014 (218/2013). An appeal has been filed in the Honb'le Gujarat High Court against this sentence by Criminal appeal no. 607/2023, which is currently pending.

Moreover, the convict has been sentenced to life imprisonment by Hon special Court POCSO, Rajasthan on dated 25/04/2018 in connection with an offence under I.P.C Section 370(4), 342, 506,

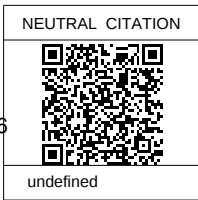


376-D, 376(2)(f), 120(B) and Section 23 of The Juvenile Justice (Care and Protection of Children) Act, 2000 in Sessions Case No. 116/2016. An appeal has been filed in the Honb'le Rajasthan High Court against this sentence by Criminal appeal no.123/2018, which is also currently pending.

The said convict has submitted his first furlough leave request through his advocate here vide above reference application and since the prisoner has already been sentenced to life imprisonment in two states and is currently serving his sentence in Jodhpur Central jail Rajasthan. Hence, a decision on granting furlough leave to the convict can not be made by this office.

Further, as mentioned in point no.03 of your application, Jodhpur Central Jail has sought NOC from the state of Gujarat regarding the parole leave of the prisoner approved by the Rajasthan High Court, but as per the Home Department Government of Gujarat's Circular No. JLK/4395/5654/J, dated 17/10/1995 and the judgement of the Honb'le Gujarat High court in LPA no. 609/1995, dated 04/08/1995, since the appeal of the prisoner is pending in the Honb'le Gujarat High Court, the procedure for granting, NOC can not be made by this office, too."

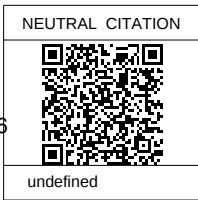
8. Learned Senior Advocate Mr.Nanavati has also made a



mention of the Circular dated 09.10.1995 where, the reference has been made of the order passed in Letters Patent Appeal No.609 of 1995 by this High Court and considering the provisions of Section 389(1) of the Code of Criminal Procedure, 1973, it had been circulated that the convicted accused, whose appeal is pending before the Court, the jail authority, could not exercise the jurisdiction under the Bombay (Parole and Furlough) Rules, 1959 to grant parole and in such circumstances, it is only the Appellate Court, who can release such convict on bail.

9. Learned Senior Advocate Mr.Nanavati thus, referring to the reply dated 18.08.2026 of the Deputy Inspector General of Police, referred to hereinabove, relying on the last paragraph of rejection, submitted that the ground thus, for filing the present application, is the Circular of the Home Department of the Government of Gujarat and as the appeal of the convict is pending in the present Court, so the procedure for granting N.O.C. was not adopted by the Office of Prison & Correctional Administration.

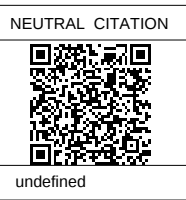
10. Learned Senior Advocate Mr.Nanavati submitted that



the applicant has not raised any ground for medical reason. The discretionary power of this Court is prayed to be invoked in view of the power, which has been recognized in Letters Patent Appeal No.609 of 1995 and when the parole leave cannot be granted by the jail authority, it is the Court where, the appellant's appeal is pending, would have the jurisdiction to consider the interim bail.

11. Learned Senior Advocate Mr.Nanavati submitted that when the Hon'ble High Court of Rajasthan has specifically noted that the release of the applicant on interim bail would not cause any danger to the society or to any witnesses and earlier too, when the bail was granted, there was no misuse, learned Senior Advocate Mr.Nanavati submitted that taking into consideration the advanced age of the applicant being 87 years, similar discretion can be exercised by this Court so that, anomaly would not persist in implementation of the order dated 03.08.2026 passed by the Hon'ble High Court of Rajasthan in D.B. Civil Writ Petition No.14497 of 2026.

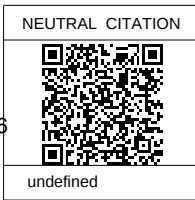
12. Per contra, learned Public Prosecutor Mr.Hardik Dave appearing with learned A.P.P. Mr.Manan Mehta for the



respondent submitted that to invoke the discretionary powers of this Court, an independent cause has to be shown. Learned Public Prosecutor Mr.Dave submitted that the grounds for making a prayer for parole leave before the Jail Authority at Rajasthan had not been disclosed by the applicant. Learned Public Prosecutor Mr.Dave has brought to the notice of this Court the order of the Hon'ble Apex Court where, the judgment of conviction passed by the Hon'ble High Court of Judicature for Rajasthan at Jodhpur was challenged by way of Special Leave to Appeal (Cri.) No.11761 of 2026. Learned Public Prosecutor Mr.Hardik Dave submitted that an interim prayer was made on the ground of health of the applicant and the Hon'ble Apex Court, after calling for report from the All India Institute of Medical Science, Jodhpur, had passed the final order on 06.08.2026.

13. Since the order of the Hon'ble Apex Court becomes relevant, it has been reproduced hereinbelow:-

“1) We have heard the learned Senior Counsel appearing for the petitioner and the learned Solicitor General appearing for the respondents.



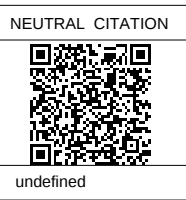
2) We take note of the statement made by the learned Solicitor General that the contents of the letter dated 31.07.2026 issued by the All India Institute of Medical Sciences, Jodhpur, shall be complied with in its true letter and spirit.

3) In this regard, the petitioner shall be at liberty to have assistance of a trained health professional of his choice for taking care of the petitioner round the clock.

4) Accordingly, the application for grant of interim bail stands adjourned with liberty to the petitioner to make a mention before this Court, in case the health of the petitioner gets deteriorated.”

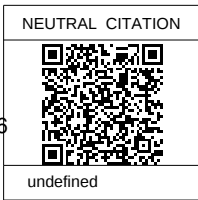
14. Learned Public Prosecutor Mr.Dave submitted that the prayer on the ground of health has already been considered by the Hon’ble Apex Court and the application for suspension of sentence is pending for hearing before the Hon’ble Apex Court and in absence of any ground raised for the interim temporary bail when parole is not the right to be claimed, the discretionary authority of this Court ought not to be exercised in absence of specific reason for the bail.

15. Having heard both the sides and having considered the



order dated 03.08.2026 passed by the Hon'ble High Court of Rajasthan, we have noticed that probably no mention of the order dated 21.07.2026 of Hon'ble Apex Court, was made before the Hon'ble High Court of Judicature of Rajasthan at Jodhpur in D.B. Civil Writ Petition No.14497 of 2026, and the prayer before the Hon'ble High Court of Rajasthan was made, raising the ground that the petitioner's prayer for parole was not acceded to since was not found eligible in terms of Rule 14(a) of the Rajasthan Prisoner Release on Parole Rules, 1958 on the ground that there was a criminal case registered against the petitioner out of the State of Rajasthan and that, he has been convicted by the Court at Gandhinagar, Gujarat. The submission was made before the Division Bench of the Hon'ble High Court of Jodhpur, Rajasthan that the petitioner is undergoing treatment and that there was no certificate issued by the Medical Officer of the petitioner being fit to be released on parole. Apprehension of the serious danger to the family of the complainant was also highlighted.

16. As noticed that the Hon'ble Apex Court by order dated 06.08.2026, which was finally ordered, after the order of the Hon'ble High Court of Rajasthan on 03.08.2026, has granted



liberty to the petitioner to make mention before the Hon'ble Apex Court in case, the health of the petitioner deteriorates. We at this stage, do not find any reason to entertain this application in view of the liberty reserved in favour of the applicant to move the Hon'ble Apex Court.

17. In the result, the application stands rejected.

(GITA GOPI,J)

(L. S. PIRZADA, J)

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