

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER PASSED BY
SUBORDINATE COURT) NO. 926 of 2017**

**FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Approved for Reporting	Yes	No
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AJAY JAGDISHBHAI PORDIYA
Versus
STATE OF GUJARAT

Appearance:

MR ROHIT S VERMA(3887) for the Applicant(s) No. 1
MR RUTURAJ NANAVATI(5624) for the Applicant(s) No. 1
MR ROHAN RAVAL, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 28/04/2026

JUDGMENT

[1.0] By way of present revision application under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (for short "CrPC"), the applicant has prayed for quashing and setting aside of the order dated 24.08.2017 passed below Exh.4 by the learned 8th Additional Sessions Judge, Ahmedabad (Rural), whereby the learned Sessions Judge dismissed the application Exh.4 filed in in Sessions Case No.23/2017 under Section 227 of the CrPC seeking discharge.

[2.0] Heard learned advocate for the applicant and learned APP for respondent – State of Gujarat.

[3.0] It is the case of the applicant that an FIR being I-CR No.23 of 2014 came to be lodged against the present applicant with Bopal

Police Station for the offence punishable under Sections 363 and 366 of the Indian Penal Code, 1860 alleging that the second daughter of the complainant was not in the house on 30.03.2014 and when she inquired from her other children and neighbours, as she could not trace out her daughter (hereinafter referred to as "victim"), the complainant called her husband and thereafter, when the complainant and her other relatives called on the mobile phone of victim, the present applicant allegedly received the call and answered that victim is with his two brothers and thus, the complainant got suspicion that victim might have been abducted by the present applicant. Hence, the FIR came to be filed. After carrying out investigation, the Investigating Officer filed the charge-sheet and as the case was sessions triable, it came to be committed to the Court of learned Sessions Judge and numbered as Sessions Case No.23/2017. The applicant herein filed an application Exh.4 under Section 227 of the CrPC seeking discharge which came to be dismissed by the learned Additional Sessions Judge vide the impugned judgment and order. Hence, being aggrieved and dissatisfied, the applicant has preferred the present revision application.

[4.0] Having heard the learned advocates appearing for the respective parties and perusing the record, it appears that discharge application Exh.4 under Section 227 of the CrPC came to be filed only on the ground that the victim left her parental home at her own will and wish and therefore, offence under Sections 363 or 366 of the IPC IPC is not made out though the concerned Investigating Officer has filed the charge-sheet under said Sections of the IPC. Perusing the record, it appears that the age of victim at the time of incident was 17 years and 10 months meaning thereby the victim was at the verge of attaining the age of majority and perusing the statement of victim

before police, it clearly transpires that the victim had stated that after passing her Std. IX examination, victim went to Junagadh and there she came in contact with the accused and she fall in love with the accused and due to such relationship, victim at her own voluntarily left her parental home.

[4.1] Further, the The concept of discharge in criminal jurisprudence operates as a constitutional safeguard, ensuring that no individual is compelled to undergo the burdens of a criminal trial unless the prosecution first meets the minimal judicially-recognisable threshold of a *prima facie* case. Considering the concept of fair trial and safeguard provided under the Code reveals through investigation papers that no *prima facie* offence is made out and once offence is not made out and charge levelled against the applicant – accused is found groundless, in that event, it is the duty of the Court to see to it that the applicant is not put to any harassment and such trial is nothing but sheer wastage of judicial time and it is unjust to continue the prosecution against such an accused.

[4.2] Further, in the case of **Deepak Vaishnav vs. State of Chhattisgarh [Criminal Appeal No.119 of 2024 dated 09.04.2026]**, the Chhattisgarh High Court acquitted the accused as the High Court found significant gaps in the evidence. It noted that the girl had been in contact with the accused and had voluntarily accompanied him. Importantly, the Court emphasized that there was no evidence showing that the accused had "taken" or "enticed" her away from lawful guardianship, which is a key ingredient for establishing kidnapping under Section 361 IPC. Relying on the Supreme Court's ruling in the case of **S. Varadarajan vs. State of Madras** reported in **AIR 1965 (SC) 942**, the Bench observed that mere accompaniment by

a minor, without inducement or persuasion by the accused, does not amount to kidnapping.

[5.0] In wake of aforesaid conspectus, present revision application is **allowed**. Impugned order dated 24.08.2017 passed below Exh.4 by the learned 8th Additional Sessions Judge, Ahmedabad (Rural) in Sessions Case No.23/2017 is hereby quashed and set aside. Rule is made absolute accordingly. Record & Proceedings, if any, be returned back to the concerned Court. Direct service is permitted.

Sd/-
(HASMUKH D. SUTHAR, J.)

Ajay