



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL REVISION APPLICATION (AGAINST ORDER  
PASSED BY SUBORDINATE COURT) NO. 2627 of 2025**

**With**

**R/CRIMINAL REVISION APPLICATION NO. 49 of 2026**

**With**

**R/CRIMINAL REVISION APPLICATION NO. 133 of 2026**

**With**

**R/CRIMINAL REVISION APPLICATION NO. 2626 of 2025**

**With**

**R/CRIMINAL REVISION APPLICATION NO. 226 of 2026**

**FOR APPROVAL AND SIGNATURE:**

**HONOURABLE MR.JUSTICE P. M. RAVAL**

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Approved for Reporting	Yes	No
	✓	

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**KARTIKBHAI JASHUBHAI PATEL**

**Versus**

**STATE OF GUJARAT**

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**Appearance:**

**MR JM PANCHAL, SR ADVOCATE with MR AJJ H**

**MURJANI(13356) for the Applicant(s) No. 1**

**MR HARDIK DAVE, PP with MR ROHAL RAVAL, APP for the  
Respondent(s) No. 1**

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**CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL**

**Date : 05/03/2026**

**ORAL JUDGMENT**

1. Learned advocate appearing for the applicant in Criminal Revision Application No. 226 of 2025 has tendered a draft amendment. The same is allowed in terms of the draft. Amendment shall be carried out forthwith.

2. *Rule*, returnable forthwith. Learned Additional Public Prosecutor waives service of notice of Rule for the respondent-State.

**FACTUAL BACKGROUND:**

3. The present group of revision applications arises from a common order passed by the learned 6<sup>th</sup> Additional Sessions Judge, Ahmedabad, whereby the applications preferred by the present applicants seeking (i) condonation of delay in filing discharge applications under Section 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and (ii) discharge from the offences alleged, came to be rejected.

4. The prosecution case, in brief, is that the applicants – Directors, Non-Executive Director, Chief Executive Officer and medical practitioners associated with Khyati Hospital,



Ahmedabad – in alleged connivance with one another, entered into a criminal conspiracy to derive pecuniary advantage under the Pradhan Mantri Jan Arogya Yojana (PM-JAY). It is alleged that patients were induced to undergo angiography and angioplasty procedures, including implantation of stents, without medical necessity; that misleading or false medical records were prepared to generate fear and obtain consent; and that two patients died as a consequence thereof.

5. On the basis of these allegations, FIR being C.R. No. 11191020240478 of 2024 dated 13.11.2024 came to be registered with Vastrapur Police Station, Ahmedabad City, for offences punishable under Sections 105, 110, 336(2), 336(3), 340(1), 340(2), 318 and 61 of the Bharatiya Nyaya Sanhita, 2023 (BNS). Upon completion of investigation, charge-sheet was filed and the case, being exclusively triable by the Court of Sessions, was committed under Section 232 of the BNSS.

6. The applicants thereafter preferred applications seeking discharge under Section 250 of the BNSS. In certain matters, as the discharge applications were filed beyond the prescribed period of sixty days from the date of committal, separate applications, as detailed below, for condonation of delay were also filed. The learned Sessions Judge rejected the delay condonation applications and consequently, declined to entertain the discharge applications. Aggrieved thereby, the present revisions are preferred as detailed



below:

CR.R A No.	Sess ions Cas e No.	Applicant Name & Status	Impugned Order dated	Passe d below Exh.	Passed by	Applicati on for	Committ al proceedi ngs comple ted on (as per impugne d order)	Dischar ge Applicat ion filed on (as per impugne d order)
2627/ 2025	128/ 2025	Kartikbhai Jashubhai Patel (Director)	20.12.2025	91 & 92	Ld. 6 <sup>th</sup> Addl. Sessions Judge, Ahmedab ad.	Delay Condonati on and to Discharge	09.06.202 5	07.11.202 5
49/ 2026	31/ 2025	Sanjaybhai Muljibhai Patoliya (Doctor)	12.12.2025	80	-do-	Discharge	13.02.202 5	29.08.202 5
133/ 2026	31/ 2025	Rahul Rajendraku mar Jain (CEO)	19.12.2025	76	-do-	Discharge	13.02.202 5	14.08.202 5
226/ 2026	31/ 2025	Rajeshree Pradeep Kothari (Non- executive Woman Director))	12.12.2025	77	-do-	Discharge	13.02.202 5	29.08.202 5
2626/ 2025	128/ 2025	Kartikbhai Jashubhai Patel (Director)	20.12.2025	91 & 92	-do-	Delay Condonati on and to Discharge	09.06.202 5	07.11.202 5

### **SUBMISSIONS:**

7. Heard, learned Senior Counsel Mr. J. M. Panchal, appearing with Mr. Ajj H. Murjani, learned advocate for the applicant in Criminal Revision Application Nos. 2627 and 2626 of 2025, learned Senior Counsel Mr. N. D. Nanavati, appearing with Mr.



Jigneshkumar P. Pandav, learned advocate for the applicant in Criminal Revision Application No. 133 of 2026, learned Senior Counsel Mr. Mihir Joshi, appearing with Mr. Rahul Dholakia, learned advocate for the applicant in Criminal Revision Application No. 49 of 2026, learned advocate Mr. Ankit Shah for the applicant in Criminal Revision Application No. 226 of 2026 and learned Public Prosecutor Mr. Hardik Dave, appearing with Mr. Rohan Raval, learned Additional Public Prosecutor for the respondent – State.

**ON BEHALF OF THE APPLICANTS:**

**(A) On limitation and right to seek discharge:**

8. Learned Senior Counsel appearing for the applicants have assailed the impugned orders contending that the learned Sessions Judge adopted a hyper-technical approach in rejecting the delay condonation applications and, while doing so, impermissibly entered into the merits of the prosecution case.

9. Learned Senior Counsel Mr. Mihir Joshi has advanced the submission that Section 250(1) of the BNSS confers upon the accused a right to prefer an application for discharge within sixty days from the date of committal so as to trigger the prosecution to open and crystallize its case at the threshold. According to him, this provision is intended to ensure expeditious trial; however, the failure to exercise such right within sixty days does not extinguish



the substantive right of the accused to seek discharge. It is contended that discharge is intrinsically connected with the guarantee of fair trial under Article 21 of the Constitution, and therefore, the statutory period ought not to be construed as extinguishing the right itself.

9.1 Mr. Joshi would further submit that as per the amended provisions under sub-clause (2) of Section 250 of the BNSS, the same is verbatim as was in the Criminal Procedure Code, 1973. However, it is submitted that sub-clause (1) of Section 250 of the BNSS provides an additional right to trigger the prosecution at the very threshold. Thus, it is contended that the right which was already conferred under the old Code, is also conferred by the BNSS, however, as an additional right to trigger the prosecution at the very threshold, under sub-clause (1) of Section 250 of the BNSS, which confers right upon an accused to prefer an application for discharge if he is so desirous within 60 days from the date of committal.

**(B) On non-supply of documents and invalid committal:**

10. Learned Senior Counsel Mr. Nirupam Nanavati has further submitted that the committal order under Section 232 of the BNSS is vitiated inasmuch as it was passed without complete compliance of Section 230. It is pointed out that certain documents, not forming part of the charge-sheet papers initially supplied, were furnished by the prosecution at the stage of hearing of the



discharge applications and were relied upon in reply. It is therefore contended that:

- (i) There was non-compliance of Section 230 at the stage of supply of documents;
- (ii) Consequently, the committal under Section 232 is rendered defective;
- (iii) The opening of the case under Section 249 is also vitiated as the prosecution sought to rely upon materials not forming part of the original record; and
- (iv) Such non-compliance at successive stages has caused prejudice to the accused, affecting their right to a meaningful consideration of discharge.

**ON BEHALF OF THE STATE:**

11. Learned Public Prosecutor has opposed the revisions contending that Section 250 prescribes a clear limitation period of sixty days, introduced to expedite criminal trials. It is submitted that law of limitation is founded upon public policy and cannot be diluted merely because the accused desires to raise a threshold challenge.

12. It is further contended that even if certain additional



documents were referred to subsequently, such reference would not invalidate the committal or render the proceedings void, unless specific prejudice is demonstrated. Learned PP would also submit that when legislatures have incorporated statutory period the accused ought to have preferred discharge application within said statutory period and therefore argued that by amendment neither new right is created nor the earlier right of discharge is extinguished but only time period is provided to exercise right of discharge if the accused wants to avail such right.

### **STATUTORY FRAMEWORK:**

13. Section 230 of the BNSS mandates supply of police report and relevant documents to the accused. Section 232 stipulates that committal to the Court of Sessions shall be effected only after compliance with Section 230. Section 249 contemplates opening of the prosecution case. Section 250 enables the accused to prefer a discharge application within sixty days from the date of committal. For ready perusal, the same are extracted hereunder:

***230. Supply to accused of copy of police report and other documents.*** – *In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay, and in no case beyond fourteen days from the date of production or appearance of the accused, furnish to the accused and the victim (if represented by an advocate) free of cost, a copy of each of the following:-*

(i) *the police report;*



- (ii) *the first information report recorded under section 173;*
- (iii) *the statements recorded under sub-section (3) of section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (7) of section 193;*
- (iv) *the confessions and statements, if any, recorded under section 183;*
- (v) *any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (6) of section 193:*

*Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:*

*Provided further that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused and the victim (if represented by an advocate) with a copy thereof, may furnish the copies through electronic means or direct that he will only be allowed to inspect it either personally or through an advocate in Court:*

*Provided also that supply of documents in electronic form shall be considered as duly furnished.*

**232. Commitment of case to Court of Session when offence is triable exclusively by it.** – *When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall –*

- (a) **commit, after complying with the provisions of section 230 or section 231 the case to the Court of Session, and subject**



*to the provisions of this Sanhita relating to bail, remand the accused to custody until such commitment has been made;*

*(b) subject to the provisions of this Sanhita relating to bail, remand the accused to custody during, and until the conclusion of, the trial;*

*(c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;*

*(d) notify the Public Prosecutor of the commitment of the case to the Court of Session:*

*Provided that the proceedings under this section shall be completed within a period of ninety days from the date of taking cognizance, and such period may be extended by the Magistrate for a period not exceeding one hundred and eighty days for the reasons to be recorded in writing:*

*Provided further that any application filed before the Magistrate by the accused or the victim or any person authorised by such person in a case triable by Court of Session, shall be forwarded to the Court of Session with the committal of the case."*

**249. Opening case for prosecution.** – *When the accused appears or is brought before the Court, in pursuance of a commitment of the case under section 232, or under any other law for the time being in force, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.*

**250. Discharge.** – *(1) The accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case under section 232.*

*(2) If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against*



*the accused, he shall discharge the accused and record his reasons for so doing.*

14. The scheme thus emphasizes informed participation of the accused at the threshold stage.

#### **LAW ON LIMITATION AND CONDONATION:**

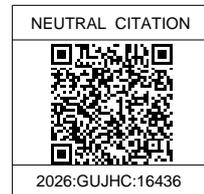
15. In *Collector, Land Acquisition, Anantnag v. Mst. Katiji*, (1987) 2 SCC 107, the Hon'ble Supreme Court held that substantial justice should prevail over technical considerations while dealing with condonation of delay.

16. In *N. Balakrishnan v. M. Krishnamurthy*, (1998) 7 SCC 123, it was held that length of delay is not decisive; what matters is whether sufficient cause is shown and whether the delay is *bona fide*.

17. In *Pathapati Subba Reddy (Died) by L.Rs. & Ors. v. The Special Deputy Collector (LA)*, AIR 2024 SC (Supp) 1835, the Supreme Court reiterated that merits of the case are not to be examined while deciding condonation and that Courts retain discretion where sufficient cause is demonstrated.

#### **LAW ON SUPPLY OF DOCUMENTS AND PREJUDICE:**

18. The importance of supply of documents to the accused has been emphasized in *State of Orissa v. Debendra Nath Padhi*,



(2005) 1 SCC 568, wherein the Supreme Court observed that the right of discharge must be exercised on the basis of the record of the case and documents submitted therewith, and that the accused is entitled to rely upon such materials for effective defence at the stage of charge.

19. In *Union of India v. Prafulla Kumar Samal*, (1979) 3 SCC 4, the Supreme Court held that at the stage of discharge, the Court must evaluate the material on record to determine whether sufficient grounds exist to proceed.

20. It is equally settled that procedural irregularities do not *ipso facto* vitiate proceedings unless prejudice is demonstrated. Section 465 of the Code of Criminal Procedure (Section 511 of the BNSS) embodies the doctrine that errors, omissions or irregularities shall not vitiate proceedings unless failure of justice has in fact been occasioned.

### **CONSIDERATION:**

#### **(A) Nature of the Sixty-Day Period Under Section 250:**

21. The submission of Mr. Mihir Joshi that the sixty-day period merely operates as a trigger mechanism cannot be accepted in its absolute form. The Legislature has consciously introduced a defined time frame to promote expeditious Sessions trials. If the accused were permitted to file discharge applications at any stage



without reference to limitation, the statutory prescription would be rendered nugatory.

22. However, it is equally well settled that limitation provisions ordinarily regulate the remedy and not the underlying defence. The right to seek discharge is not extinguished automatically upon expiry of sixty days; rather, the remedy becomes subject to the Court's discretion in condoning delay upon sufficient cause being shown. Further even if the accused does not prefer an application for discharge the Court is duty bound to apply its judicial mind before framing of the charge and if no sufficient material for framing of charge is found the Court has to discharge the accused.

23. Thus, by virtue of Section 250(1) an accused may prefer an application for discharge within a period of sixty days from the date of commitment of the case under section 232, if at all he desires to prefer such an application, but, in the considered opinion of the Court, it does not exclude the judicial discretion in appropriate cases or where delay is not attributable to the accused as in the present facts of the case. Thus, it can be held that 60 days period under Section 250(1) of the BNSS regulates the procedure and it does not extinguish the right to seek discharge. It also does not exclude the judicial discretion in appropriate cases where delay is not attributable to the accused while considering the condonation of delay as it reflects *prima facie* from the facts of the present case.



**(B) Effect of Non-Supply of Certain Documents:**

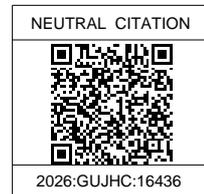
24. The contention of Mr. Nirupam Nanavati that the committal itself stands vitiated requires careful scrutiny. Section 232 mandates compliance with Section 230 before committal. Supply of documents is indeed a condition precedent for meaningful defence.

25. However, the record indicates that the charge-sheet papers forming the basis of prosecution were supplied. The grievance pertains to certain additional materials referred to in reply to the discharge applications.

26. The critical question is whether such non-supply at the initial stage has occasioned demonstrable prejudice.

27. It is well settled that committal proceedings are administrative in nature and not adjudicatory on merits. Unless failure of justice is shown, committal cannot be declared void for every procedural lapse.

28. If the prosecution seeks to rely upon additional documents beyond the charge-sheet record, such materials must ordinarily be brought on record in accordance with law and furnished to the accused before being relied upon. However, such subsequent supply, by itself, would not retroactively invalidate the committal or the opening of the case unless prejudice affecting fair trial is



established.

29. In the present case, the appropriate remedy is not to declare the committal *void ab initio* but to ensure that discharge applications are considered afresh after complete supply of all materials sought to be relied upon by the prosecution. However, it would be apt to point out that the accused have not challenged the committal order or even the opening of the case however to do complete justice the said arguments are dealt with.

**(C) Whether delay deserves condonation:**

30. In the instant case, even the dates mentioned, as referred in the details referred in the tabular form in paragraph 6 above, are taken as it is, the maximum delay, beyond sixty days, is approximately of 140 days (in CrRA Nos. 49/2026 & 226/2026). Considering the fact that certain documents were supplied subsequently and that the right of discharge is a valuable statutory safeguard, this Court is satisfied that sufficient cause has been shown.

31. The learned Sessions Judge, while rejecting condonation, adverted to merits. As held in *Pathapati Subba Reddy (supra)*, such approach is impermissible.

32. Criminal jurisprudence must reconcile expeditious trial with fairness. A rigid and technical approach in the present facts would



defeat substantial justice.

**CONCLUSION:**

33. For the foregoing reasons, this Court holds:

(i) An accused may prefer an application for discharge within sixty day period ordinarily, but, beyond 60 days, does not extinguish his right to seek discharge where delay is satisfactorily explained.

(ii) The committal proceedings are not rendered void merely because certain additional documents were supplied subsequently; however, fairness requires that discharge applications be considered only after complete supply of materials relied upon by the prosecution.

(iii) The learned Sessions Judge erred in refusing to condone the delay and in entering into the merits at the stage of condonation.

**FINAL ORDER:**

34. The impugned orders in these revision applications, as detailed in paragraph 6 above, are quashed and set aside. The delay in filing the discharge applications is hereby condoned.



35. The learned trial Court is directed to decide the discharge applications afresh, on merits, after ensuring that all documents sought to be relied upon by the prosecution are duly furnished to the accused, and after affording full opportunity of hearing to both sides. The learned Court shall remain uninfluenced by any observations contained in the earlier orders or in this order.

36. Rule is made absolute accordingly.

**[ P. M. Raval, J. ]**

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