

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 3728 of
2017

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BACHUBHAI LAKHABHAI VAGHELA....Applicant(s)

Versus

STATE OF GUJARAT....Respondent(s)

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Appearance:

MR PRAVIN GONDALIYA, ADVOCATE for the Applicant(s) No. 1

PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE N.V.ANJARIA**

Date : 08/03/2017

ORAL ORDER

It is in connection with the First Information Report dated 27.10.2016 bearing Crime Register No. I-21 of 2016 registered with Jafarabad police station, Amreli, for the alleged offences under sections 465, 467, 468, 471 and 114 of Indian Penal Code, 1860, that the present application under section 438 of Code of Criminal Procedure, 1973, presented before this court by the applicant accused.

2. As far as the contents of the First Information Report go, it is the allegations against the present applicant that he purchased land bearing Survey No. 17 paiki at village Vadli, for which entry No. 838 was mutated in the revenue records. What is further alleged in connection with the transaction that in order to show that the applicant was an agriculturist, he produced a copy of 7/12 Extract,

which as per the allegations, resembled of his name but was of a different person named Bachubhai Lakhabhai and not of Bachubhai Lakhabhai Vaghela-the present applicant. It appears that a notice under rule 108(6) of the Bombay Land Revenue Rules has already been issued in this regard and those proceedings are underway. The entry was subsequently came to be canceled by the learned Collector.

3. Learned APP submitted that the act was grave where as per the allegations, a wrong document which was not belonging to the applicant, was produced in form of 7/12 Extract and the transaction was sought to be supported in the capacity of an agriculturist.

4. As in the facts and circumstances of the case, the court was inclined to consider the prayer for anticipatory bail, it was submitted by both the learned advocates that they do not invite elaborate reasons.

5. Considering nature of allegation in the FIR, the offences alleged in respect thereto as well as the aspect that the entire case and the investigation therein, would depend on the documentary material, taking away personal liberty to the applicant would not be justified.

6. In the facts and circumstances therefore availing personal liberty to the applicant has to be accorded primacy over forcing his arrest. The

interests of the investigation could be balanced and could be protected by imposing appropriate conditions on the applicant for enjoying the protection against arrest.

7. In the circumstances therefore, it is directed that in the event of applicant's arrest in connection with the First Information Report dated 27.10.2016 bearing Crime Register No. I-21 of 2016 registered with Jafarabad police station, Amreli, the applicant shall be released forthwith on condition of execution of personal bond of Rs. 25,000/-.

7.1 The anticipatory bail granted by this order, shall be further governed and regulated by the following conditions.

[i] The applicant shall cooperate with the investigation. He will make himself available for interrogation and for all investigative purposes whenever required;

[ii] The applicant shall not obstruct the process of investigation in any manner. He shall not directly or indirectly induce threat or extend promise to any witness so as to dissuade and prevent such witness from disclosing such facts as may be required, to the Court or Police Officer;

[iii] The applicant shall at the time of execution of bond, furnish full address of his

residence and stay to the Investigating Officer as well as to the Court concerned. He shall not change the residence without prior intimation to the Court concerned during the pendency of the prosecution in the criminal case;

[iv] The applicant shall not travel beyond the territory of the State of Gujarat without prior permission of the Court concerned;

[v] The applicant shall surrender passport, if any he is holding, before the Court concerned immediately.

[vi] The applicant shall remain present at the Police Station concerned on 15th March, 2017 between 11.00 am and 02.00 pm.

[vii] It shall remain open to the Investigating Officer to seek and file application for remand of the applicant, if in his discretion he considers the asking for remand of the applicant to be just and proper for the purpose of investigational needs. If such application for remand is made by the Investigating Officer, the learned Magistrate concern would consider the same on merits without being influenced by the anticipatory bail granted.

8. It is clarified that despite this order, the

investigating agency is not precluded from applying before the competent Magistrate for police remand of the applicant. It is further provided that the applicant shall remain present before the Magistrate concerned on the first day of such application, if made, and on all such subsequent occasions as may be directed by the learned Magistrate in such proceedings.

8.1 This would be sufficient to treat the accused as in judicial custody for the purpose of entertaining the application for remand by the prosecution. This liberty available to the prosecution to seek remand shall be without prejudice to the rights of the accused to contend against or to seek stay against the remand. It is further clarified that the applicant even if remanded to the police custody, after completion of the remand period; shall be set at liberty immediately, subject to other conditions of this anticipatory bail order, to be complied with.

8.2 It is clarified that the observations made in this order are for the purpose of granting pre-arrest protection only. It is further clarified that the trial court shall not be influenced by any of the observations made in this order and the same shall be treated for the above purpose only.

9. The present application is allowed in the aforesaid terms. Rule is made absolute.

Direct service is permitted.

cmjoshi

(N.V.ANJARIA, J.)