

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 14009 of 2020**

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MINAKSHIBEN HEMANTBHAI VYAS

Versus

STATE OF GUJARAT

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Appearance:

MR HJ DHOLAKIA(5862) for the Applicant(s) No. 1

MR RC KODEKAR, APP (2) for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE R.P.DHOLARIA****Date : 30/09/2020****ORAL ORDER**

1. Heard learned advocates for the respective parties through video conferencing.

2. Rule. Mr.Kodekar, learned APP waives service of notice of rule on behalf of the respondent State.

3. By way of present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant-accused has prayed for anticipatory bail in connection with the FIR being C. R. No.I-11216004200346 of 2020 registered with Dabhoda Police Station for the offence punishable under Sections 408, 420, 120-B of IPC.

4. Learned advocate for the applicant submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. He further submits that the applicant will keep herself available during

the course of investigation, trial also and will not flee from justice.

5. Learned advocate for the applicant on instructions states that the applicant is ready and willing to abide by all the conditions including imposition of conditions with regard to powers of Investigating Agency to file an application before the competent Court for remand. He further submits that upon filing of such application by the Investigating Agency, the right of applicant to oppose such application on merits may be kept open. Learned advocate, therefore, submitted that considering the above facts, the applicant may be granted anticipatory bail.

6. Learned Additional Public Prosecutor appearing on behalf of the respondent – State has opposed grant of anticipatory bail looking to the nature and gravity of the offence.

7. Heard the learned advocates for the parties. On going through the record and proceedings as well as arguments advanced by learned advocates for the respective parties, it appears that this is a systematic fraud of huge amount which is committed from the complainant's company's account by accused No.1 Mr.Chintan by way of associating and making instrument as family members like parents and spouse and jointly opened up the accounts and siphoned away the amount to the extent of 8,56,04,828/-

on various accounts and the amount also appears to have been transferred by accused No.1. The record also indicates that series of acts are the result of premeditation and guilty mind on the part of said accused Chintan by making instrument the applicant and other family members. Entire case rests on the documentary evidence since all the transactions appear to have been done by said Chintan by making instrument the applicant and other family members. For recovery of such huge amount, heinous and serious crime is revealing against said accused Chintan. This Court is conscious that the present applicant may be aware regarding transaction in question, but the mens rea would be attributed to the limited extent as she is not actively participating in the crime in question and she being a lady aged about 67 years. On considering several aspects, without discussing the evidence in detail, at this stage, I am inclined to grant anticipatory bail to the applicant.

8. This Court has also taken into consideration the law laid down by the Honourable Apex Court in the case of Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Ors., reported at [2011] 1 SCC 694, wherein the Honourable Apex Court reiterated the law laid down by the Constitution Bench in the case of Shri Gurubaksh Singh Sibbia & Ors. Vs. State of Punjab, reported at (1980) 2 SCC 565.

9. In the result, the present application is allowed.

The applicant is ordered to be released on bail in the event of her arrest in connection with a FIR being C. R. No.I-11216004200346 of 2020 registered with Dabhoda Police Station on her executing a personal bond of Rs.2,00,000/- (Rupees Two Lacs Only) with one surety of like amount on the following conditions:

- (a) shall cooperate with the investigation and make himself available for interrogation whenever required;
- (b) shall remain present at concerned Police Station from 12.10.2020 to 15.10.2020 between 11.00 a.m. and 2.00 p.m. for interrogation;
- (c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade them from disclosing such facts to the court or to any police officer;
- (d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- (e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change his residence till the final disposal of the case till further orders;
- (f) shall not leave India without the permission of the concerned trial court and if having passport shall deposit the same before the concerned trial court within a week; and
- (g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would

decide it on merits;

10. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if, ultimately, granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order. At the trial, the concerned trial court shall not be influenced by the prima facie observations made by this Court in the present order. Rule is made absolute to the aforesaid extent.

Registry also to send the copy of the this Order to the concerned Authority through Fax and Email.

**(R.P.DHOLARIA, J)**

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