

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 10481 of 2022**

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RITESH BALDEVBHAI PATEL
Versus
STATE OF GUJARAT

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Appearance:

MR ANSHIN DESAI with MR. JAY M THAKKAR(6677) for the Applicant(s)
No. 1

HIREN S SOMAIYA(8031) for the Respondent(s) No. 1

MR RONAK RAVAL, ASSISTANT PUBLIC PROSECUTOR for the
Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL

Date : 29/07/2022

ORAL ORDER

1. Heard learned Senior Advocate Mr. Anshin Desai with learned Advocate Mr. Jay M. Thakkar for the applicant and learned Additional Public Prosecutor Mr. Ronak Raval on behalf of the respondent-State.

2. By way of this application under Section 438 of the Code of Criminal Procedure, 1973, the applicant prays for being released on anticipatory bail in connection with **FIR No. 11215037220493 of 2022** registered with **Vidhyanagar Police Station, District Anand** on 24.05.2022 for offences punishable under Sections 376(2)(n), 376(2)(e), 376C(d), 506(2) and 323 of the Indian Penal Code.

3. The applicant having initially approached the learned Sessions

Court, praying for the very selfsame relief of being released on anticipatory bail, having not succeeded before the learned Sessions Court, has approached this Court.

4. Learned Advocate for the applicant submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. Besides, the applicant is available during the course of investigation and will not flee from justice. In view of the above, the applicant may be granted anticipatory bail.

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 his remand. He would further submit that upon filing of such application by the Investigating Agency, the right of applicant-accused to oppose such application on merits may be kept open.

5. 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. It was, therefore, prayed that no discretion may be exercised in favour of the applicants.

6. Having regard to the submissions made by learned Senior Advocate Mr. Desai and learned APP Mr. Raval and learned Advocate Mr. Somaiya and further considering the request made by learned Advocate Mr. Somaiya appearing on behalf of the first informant that detailed reasons may not be recorded, this Court deems it appropriate to allow the present application and grant the anticipatory bail to the present applicant, more particularly, in the considered opinion of this Court, the nature of the offence as alleged and the role played by the petitioner as well as the attendant circumstance all being in favour of the applicant.

7. In this view of the matter and considering the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre v. State of Maharashtra and Ors.** reported in **(2011)1 SCC 694**, this Court is inclined to consider this application.

8. In the result, the present application is allowed by directing that in the event of applicant herein being arrested pursuant to the **FIR No. 11215037220493 of 2022** registered with **Vidhyanagar Police Station, District Anand**, the applicant shall be released on bail on furnishing a personal bond of Rs. 50,000/- (Rupees Fifty Thousand 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 the concerned Police Station on **02.08.2022** between 11:00 a.m. and 2:00 p.m.;

(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 him 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 or till further orders;

(f) shall not leave India without the permission of the Court and, if having passports shall surrender the same before the Trial Court within a week.

(g) **shall mark his presence once in a month for six months before the concerned Police Station.**

9. Despite this order, it would be open for the Investigating Agency to file an application for police remand of the applicant to the competent

Magistrate, if he thinks it just and proper and learned Magistrate would decide it on merits. 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.

10. At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while enlarging the applicant on bail. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

Mrs. J. J. Kedia

(NIKHIL S. KARIEL,J)