

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 17284
of 2023**

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RAVAL GAJANAND PRABHULAL

Versus

STATE OF GUJARAT

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Appearance:

MR CHETAN B RAVAL(2090) for the Applicant(s) No. 1

VAIBHAVI D RAVAL(8466) for the Applicant(s) No. 1

MR LB DABHI, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 29/09/2023

ORAL ORDER

1. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant accused has prayed to release him on anticipatory bail in the event of his arrest in connection with the **FIR being I-CR No.11191037230795 of 2023** registered with **Odhav Police Station, Dist. Ahmedabad** for the offences punishable under Sections 454, 457 and 380 of the Indian Penal Code.

2. 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. Learned advocate for the applicant has submitted that the present applicant is wrongly arraigned as an accused in the offence. He has nothing to do with the offence. It is submitted that he is not named in the FIR. It is submitted that the case of similarly situated co-accused is considered by the trial Court as well as this Court. Hence, on

the ground of parity, he has requested to consider the case of the applicant. It is submitted that he is having deep root in the family and applicant is have no any past antecedents. It is further submitted that nothing is required to be recovered or discovered from the accused. Learned advocate for the applicant has submitted that he is ready and willing to join the investigation. 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.

3. 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 is stated that investigation is at preliminary stage and at this stage, if application is allowed, it will adversely affect the case of prosecution. Hence, custodial interrogation is required and he requested to dismiss the present application.

4. Having heard the learned advocate for the parties and perusing the investigation papers, it is equally incumbent upon the Court to exercise its discretion judiciously,

cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of the Hon'ble Apex Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail. Though at the stage of granting bail an elaborate examination of evidence and detailed reasons touching the merit of the case, which may prejudice the accused, should be avoided. I have considered the following aspects.

(i) on going through the complaint, prima facie, it appears that complainant is running the factory under the name of "Arihant Iron and Steel" at Singrwa, Odhav and his supervisor has filed the complaint against the unknown persons. It is alleged that unknown person has entered into the factory and stolen the iron goods worth Rs.1,19,600/- and thereafter, complaint is registered.

(ii) the allegation against the present applicant is that the present applicant has purchased the stolen goods and he is facing the charge under Section 411 of Cr.P.C. Considering the aforesaid fact, as allegations

against the present applicant is that he has only purchased the stolen goods and as to whether, he was knowing about the goods is stolen or not is required to be appreciated at the time of trial;

- (ii) offence is not punishable with life or death;
- (iii) applicant is not named in the FIR;
- (iv) no past criminal antecedent is reported against the present applicant;
- (v) nothing is required to be recovered or discovered from the applicant;
- (vi) applicant has shown his willingness to co-operate and participate in the investigation;
- (vii) This Court has taken care of custodial interrogation of applicant as right to seek remand of applicant is also kept open.

5. In view of Law of parity laid down in the case of **Rameshbhai Batubhai Dhabhi vs State of Gujarat** reported in **(1999) 3 GLR 1150**, discretion may be exercised in favour of the applicant.

5.1. Considering the aforesaid aspects and the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors.** reported in **(2011) 1 SCC 6941**, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of **Shri Gurubaksh Singh Sibbia & Ors.** reported in **(1980) 2 SCC 665** and also the decision in the case of **Sushila Aggarwal v. State (NCT of Delhi)** reported in **(2020) 5 SCC 1**, I am inclined to allow the present

application.

6. In the result, the present application is allowed by directing that in the event of applicant herein being arrested in connection with the **FIR being I-CR No.11191037230795 of 2023** registered with **Odhav Police Station, Dist. Ahmedabad**, the applicant shall be released on bail on furnishing a personal bond of **Rs.10,000/- (Rupees Ten Thousand Only)** with one surety of like amount on the following conditions that he:

- (a) shall cooperate with the investigation and make himself available for interrogation whenever required;
- (b) **shall remain present at the concerned Police Station on 05/10/2023 between 11.00 a.m. and 2.00 p.m. and the IO shall ensure that no unnecessary harassment or inconvenience is caused to the applicant;**
- (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 till further orders;
- (f) shall not leave India without the permission of the

Court and if having passport shall deposit the same before the 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;

7. 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. 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.
8. 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.
9. Rule is made absolute to the aforesaid extent. Application is disposed of accordingly. Direct service is permitted.

(HASMUKH D. SUTHAR,J)

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