

(2022) 01 GUJ CK 0088

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 21775 Of 2021

Ashvinbhai Babubhai Vaghani

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 21-01-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 114, 409, 420

Gujarat Protection Of Interest Of Depositors (In Financial Establishments) Act, 2003 — Section 3

Citation : (2022) 01 GUJ CK 0088

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Tulshi R Savani, Manan Mehta

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. By way of the 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.11210015210254 of 2021 registered with DCB Police Station, Surat City Dist. Surat for the offence

punishable under Sections 406, 420, 409 & 114 of the Indian Penal Code and Section 3 of the Gujarat Protection of Interest of Depositors (In Financial

Establishment) Act.

2. Learned advocate for the applicant submits that the applicant is innocent and he has been falsely implicated in the alleged offence. The applicant

has no any past antecedent of like nature, therefore, custodial interrogation of the applicant is not essential for the purpose of investigation.

3. Learned Additional Public Prosecutor appearing on behalf of the respondent
â?" State has opposed grant of anticipatory bail stating inter alia that

the allegations against the applicant are grave and serious in nature and
custodial interrogation is necessary for further investigation of the case.

4. Having heard the learned advocates for the parties and perusing the material
placed on record and taking into consideration the facts of the case, it

appears that at the relevant point of time the applicant was employee of the
Company and was serving, as a Technical Executive. There is no

allegation against the present applicant that he was beneficiary to the
transactions entered into by the Co-accused. The applicant has no past

antecedents of like nature. Thus, considering the role attributed to the present
applicant in the alleged offence, custodial interrogation of the applicant is

not required.

5. Considering the facts and circumstances of the case and the role attributed to
the present applicant in the alleged offence, I find no reason to

decline pre-arrest bail to the applicant. In the result, the present application is
allowed. The applicant is ordered to be released on bail in the event of

his arrest in connection with a FIR being C.R. No.11210015210254 of 2021
registered with DCB Police Station, Surat City Dist. Surat on his

executing a personal bond of Rs.10,000/- (Rupees Ten 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 concerned Police Station on 27.01.2022 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 till further orders;

(f) shall not leave India without the permission of the Trial 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. 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.

8. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

9. Rule is made absolute to the aforesaid extent. Direct service is permitted.