**(2021) 06 GUJ CK 0065**

**In the Gujarat High Court**

**Case No :** R/Criminal Misc.Application No. 8047 Of 2021

Jyostnaben Bhupatrai Shah APPELLANT

Vs

State Of Gujarat RESPONDENT

**Date of Decision :** 09-06-2021

**Acts Referred:**

Indian Penal Code, 1860 — Section 406, 420
Gujarat Value Added Tax Act, 2003 — Section 44, 46, 85, 85(1)(d), 85(1)(g), 86(1), 86(2)
Companies Act, 1956 — Section 433, 434

**Citation :** (2021) 06 GUJ CK 0065

**Hon'ble Judges :** A.S. Supehia, J

**Bench :** Single Bench

**Advocate :** Bharat Raichandani, Aditya R Parikh, Moxa Thakker

## Judgement

A.S. Supehia, J

The applicant is apprehending her arrest in connection with Valsad Rural Police Station, Part A bearing C.R.No.11200011210293 of 2021 under

Sections 406 and 420 of the Indian Penal Code, 1860 read with Sections 85(1)(d), 85(1)(g), 86(1) and 86(2) of the Gujarat Value Added Tax Act,

2003.

It is pertinent to note that the Ghadia Solar Energy renamed to Flareum Technology, which has been wound up under Section 433 and 434 of the

Companies Act, 1956 vide order dated 11.02.2021 passed in Company Petition No.150 of 2013 by the Coordinate Bench of this Court.

Learned Counsel Mr.Bharat Raichandani has submitted that no notices were received by the applicant-accused and hence, the applicant is not even

aware about such assessment orders being passed until FIR came to be lodged. He has submitted that in fact the accused has written to the local

 

VAT authorities at Valsad to provide copies of such notices, assessment orders etc, vide letters dated 26.03.2021 and 13.04.2021 in order to enable

her to peruse her statutory remedies.

Learned Counsel Mr.Bharat Raichandani has submitted that Section 44 of the Gujarat VAT Act, 2003 provides for special modes of recovery and

Section 46 thereof provides that the tax arrears can be recovered as arrears of land revenue. He has submitted that Section 85 of the VAT Act

provides for offence and no prosecution has been launched till date against the accused before the learned Magistrate by the VAT authorities.

Learned Counsel Mr.Bharat Raichandani has submitted that the incident alleged to have occurred in 2013, whereas the impugned FIR/Complaint is

filed on 05.02.2021 i.e., almost after a period of delay of about 8 years and the said delay has not been satisfactorily explained by the prosecution and

therefore, the applicant may be enlarged on bail.

In view of the above submissions made by the learned advocate for the applicant, issue Rule returnable on 28.06.2021. Learned APP waives service

of notice of rule for the respondent-State.

The applicant shall not be arrested till the next date of hearing. However, it is clarified that he shall remain present as and when summoned by the

Investigating Officer. The Investigating Officer shall file appropriate report and place the same for the perusal of this Court on or before the next date

of hearing.