

(2022) 01 GUJ CK 0110
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 1958 Of 2022

Palalv Kanubhai Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 28-01-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 143, 147, 323, 354, 427, 447, 452, 504, 506(2)

Citation : (2022) 01 GUJ CK 0110

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Adil R Mirza, Krina Calla

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. Rule. Learned APP waives service of notice of Rule for and on behalf of respondent State.

2. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicants - accused have prayed for anticipatory

bail in connection with the FIR being C.R. No. 11200011220054 of 2022 registered with Valsad Rural Police Station, Dist. Valsad for the offences

under Sections 143, 147, 323, 447, 452, 354, 504, 506(2) and 427 of IPC.

3. Learned advocate for the applicants submit that the applicants have been falsely implicated in the alleged offence.

4. 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 applicants are grave and serious in nature and custodial interrogation is necessary for further investigation of the case.

5. 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 so far role of present applicants are concerned, they were present at the place. Those persons against whom the serious allegations

alleged to have been made under Section 354 are not before this Court. It is pertinent to note that the offence is alleged to have been committed on

21.12.2021 for which the FIR came to be registered on 4.1.2022. The applicants having no any past antecedents of like nature. They does not flee

from justice and are readily available at the time of trial. In this background facts custodial interrogation of the applicants are not found to be essential

for the purpose of investigating.

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

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

of their arrest in connection with a FIR being C.R. No. 11200011220054 of 2022 registered with Valsad Rural Police Station, Dist. Valsad on their

executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) each with one surety of like amount on the following conditions:

Â (a) shall cooperate with the investigation and make themselves available for interrogation whenever required;

(b) shall remain present at concerned Police Station on 09.02.2022 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 their 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

applicants 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.