

(2020) 08 GUJ CK 0002

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9745 Of 2020

Radheshyam Mohanlal Yadav (Badal Master)

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 04-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 114, 406, 420

Citation : (2020) 08 GUJ CK 0002

Hon'ble Judges : B.N. Karia, J

Bench : Single Bench

Advocate : BC Dave, H.K. Patel

Final Decision : Disposed Of

Judgement

B.N. Karia, J

By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant has prayed to release him on anticipatory

bail in case of his arrest in connection with the FIR registered as C.R No.11214046200929 of 2020 before Palsana Police Station, District: Surat for

the offence punishable under Sections 406, 420 and 114 of the Indian Penal Code.

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 away from the justice. In view of the above, the applicant may be

enlarged on anticipatory bail by imposing suitable conditions.

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. Learned advocate for the

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

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.

Heard the learned Advocates for the respective parties and perused the papers.

Having heard the learned counsel for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of

allegations, role attributed to the accused, without discussing the evidence in detail, at this stage, I am inclined to grant anticipatory bail to the applicant.

This Court has also taken into consideration the law laid down by the Honâ??ble Apex Court in the case of Siddharam Satlingappa Mhetre vs. State

of Maharashtra and Ors. as reported at [2011] 1 SCC 6941, wherein the Honâ??ble Apex Court reiterated the law laid down by the Constitutional

Bench in the the case of Shri Gurubaksh Singh Sibbia & Ors., as reported at (1980) 2 SCC 665.

In the result, the present application is allowed by directing that in the event of applicant herein being arrested pursuant to FIR registered as C.R

No.11214046200929 of 2020 before Palsana Police Station, District: Surat, the applicant shall be released on bail on furnishing a personal bond of

Rs.10,000/- (Rupees Thousand only) with one surety of like amount on the following conditions that the applicant shall :

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

(b) remain present at concerned Police Station on 11.08.2020 between 11.00 a.m. and 2.00 p.m.;

(c) not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade from

disclosing such facts to the court or to any police officer;

(d) 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) at the time of execution of bond, furnish the address to the investigating

officer and the court concerned and shall not change residence till the final disposal of the case till further orders;

(f) 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; 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. 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. Application is disposed of

accordingly. Direct service is permitted.

Registry is directed to send a copy of this order to the concerned Police Station through fax or email forthwith.