

**(2021) 10 GUJ CK 0051**  
**In the Gujarat High Court**

**Case No :** R/Criminal Misc.Application No. 16962 Of 2021

Solanki Dhirendrasinh Daysinh

APPELLANT

Vs

State Of Gujarat

RESPONDENT

**Date of Decision :** 20-10-2021

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 438  
Indian Penal Code, 1860 — Section 114, 294(B), 323, 325

**Citation :** (2021) 10 GUJ CK 0051

**Hon'ble Judges :** Biren Vaishnav, J

**Bench :** Single Bench

**Advocate :** Vilav K Bhatia, Moxa Thakkar

**Final Decision :** Allowed

## **Judgement**

Biren Vaishnav, J

1. Rule. Learned APP Ms.Moxa Thakkar waives service of notice of Rule 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 has prayed for anticipatory bail in connection with the FIR being C.R. No. I - 11191035211600 of 2021 registered with Naroda Police Station, Ahmedabad for the offences punishable under Sections 325, 294(B), 323 and 114 of the Indian Penal Code.
3. Learned advocate for the applicants submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. He further submits that the applicants will keep themselves available during the course of investigation, trial also and will not flee from justice.
4. Learned advocate for the applicants on instructions states that the applicants are 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 their remand. He further submits that upon filing of such application by the Investigating Agency, the right of applicants accused to oppose such application on merits may be kept open. Learned advocate, therefore, submitted that considering the above facts, the applicants may be granted anticipatory bail.

5. 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.

6. Reading of the FIR indicates that in fact, the role that is attributed to the applicants is not correct and on the contrary, it were the applicants who were assaulted. Mr.Vilav Bhatia states that the cross FIR first in point of time was lodged by the applicants and hence, admittedly, this is a case of cross FIR.

7. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offence, role attributed to the accused, without discussing the evidence in detail, at this stage, this Court is inclined to grant anticipatory bail to the applicants. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors. as reported at (2011) 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of Shri Gurubaksh Singh Sibbia & Ors. Vs. State of Punjab, as reported at (1980) 2 SCC 565.

8. 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. I -11191035211600 of 2021 registered with Naroda Police Station, Ahmedabad, on they executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) each, with one surety of like amount on the following conditions:

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

(b) shall remain present at concerned Police Station on 25.10.2021 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;

9. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicants. 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 applicants, 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.

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

11. Rule is made absolute to the aforesaid extent.

Direct service is permitted.