

(2022) 01 GUJ CK 0080

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 17916 Of 2021

Umeshkumar Vinodbhai Suthar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 19-01-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Gujarat Prohibition Act, 1949 — Section 65(f)

Indian Penal Code, 1860 — Section 406, 420, 465, 467, 468, 471

Citation : (2022) 01 GUJ CK 0080

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Shaan M Munshaw, Krina Calla

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. Heard Mr. I.H.Syed, learned Senior Counsel assisted by Mr. Shaan Munshaw, learned counsel for the applicant and Ms. Krina Calla, learned APP

for the respondent State.

2. 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.11207025211208 of 2021 registered with Godhara Division Police Station, Dist.

Panchmahals, for the offences under Sections 65 (f) of the Prohibition Act.= 406, 420, 465, 467, 468 and 471 of Indian Penal Code, 1860.

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

tax advocate and has committed no wrong in relying upon any document which

was provided by the complainant. The case is based on documentary evidence and he has no any past antecedent and in such circumstances, custodial interrogation of the applicant is not essential for the purpose of investigation.

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 applicant 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 the offence is based on documentary evidence. It is pertinent to note that the alleged amount of Rs.9,05,300/- is being deposited by the

applicant Umeshkumar Suthar before the trial Court. The applicant has cooperated throughout in the investigation and there is no past antecedent of

like nature. In this background, custodial interrogation of the applicant is 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 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.11207025211208 of 2021 registered with Godhara â??Aâ?? Division Police Station, Dist.

Panchmahals on his 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 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 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;

(h) trial Court shall invest the amount of Rs.9,05,300/- in the FDR in any Nationalized Bank initially for a period of three years and thereafter, the

same shall be extended time to time till further order of the Court.

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. Rule is made absolute to

the aforesaid extent. Direct service is permitted.