

IN THE COURT OF 5th ADDITIONAL SESSIONS JUDGE, AHMEDABAD [R]

Criminal Misc. Application No. 110 / 2026

Exh.

Applicant/

Accused: Jigneshkumar @ Jigo Ashokbhai Makwana

Age : 29 years, Occupation : Auto-Rickshaw driver,

Resident of : Mirawadi, Dhandhuka,

Dist. Ahmedabad.

VERSUS

Opponent :

The State of Gujarat

to be served through

Learned District Government Prosecutor

at District & Sessions Court,

Ahmedabad.

APPEARANCE

Learned Advocate for the applicant : Mr. T. G. Chavda

Learned DGP for the State. : Mr. P. M. Trivedi

Subject : Application for anticipatory bail under section 482 of Bharatiya
Nagarik Suraksha Sanhita.

JUDGEMENT

- (1) The applicant has preferred present application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, seeking anticipatory bail in connection with the FIR I No.11192018250614/2025, lodged with

Dhandhuka Police Station, Ahmedabad for the offence punishable u/s. 108, 351(3), 296(b), 189(2), 190, 54 of B.N.S.

- (2) The Ld. advocate representing the applicant has argued that the present applicant is an innocent and law-abiding citizen who has been falsely implicated in the impugned FIR due to longstanding enmity between the complainant and the accused side. The allegations made in the FIR are vague, general, and do not disclose any prima facie offence under the provisions of the Bharatiya Nyaya Sanhita, particularly under Section 108, as there is no material showing mens rea, instigation, or any proximate act attributable to the applicant. The applicant has no nexus with the alleged crime and was not present at the place of incident; he is merely an auto rickshaw driver who occasionally provided transportation to one elderly accused (Accused No.16) and has no connection with either party to the dispute. The impugned FIR is a counterblast to earlier FIRs lodged between both sides, reflecting a series of litigations arising out of deep-rooted rivalry, and has been filed with mala fide intention to harass and pressurize the applicant. The record shows multiple prior FIRs and proceedings between the parties, including bail orders, cancellation of bail, and even restraint orders passed by the High Court against certain accused, which further establishes the background of animosity. The present complaint has been filed immediately after adverse orders against the complainant side, indicating abuse of the

process of law. There is no specific allegation of instigation or continuous conduct against the applicant, and mere omnibus allegations cannot constitute abetment. The applicant has not been involved in any such incident, and no credible material has been placed on record to connect him with the alleged offence. He is a permanent resident with strong roots in society, is ready to cooperate with the investigation, and undertakes to abide by any conditions imposed by the Court. Considering that similarly placed co-accused have been granted anticipatory bail, and applying the settled principle that bail is the rule and jail is an exception, it is humbly prayed that the applicant be released on anticipatory bail in connection with the said FIR on appropriate terms and conditions. The Ld. Advocate has also submitted copy of charge-sheet along with the bail application and stated that charge-sheet is also filed against total 07 accused. He also submitted many important documents along with the charge-sheet and requested for granting of bail.

- (3)** The Learned DGP has argued that the present complaint might be an action of counterblast but it may not be the ground to grant the bail. Further the name of applicant is stated in the charge-sheet as absconder and further the complaint itself reveal the name of the applicant and that indicate his clear role. Hence bail may be rejected.

The original complainant submitted written objections vide Exh.9.

Where it is submitted that the present application for anticipatory bail deserves to be rejected in view of the facts and circumstances of the case. The applicant is directly involved in the offence and there exists longstanding enmity between the parties, owing to which the applicant, along with other co-accused, has continuously harassed the deceased and the complainant's family over a prolonged period. The record reveals a consistent pattern of intimidation, threats, and pressure tactics, including filing of false cases and attempts to coerce the deceased to withdraw from earlier proceedings wherein he was a material witness. The deceased was subjected to repeated threats, including threats to his life and family members, and was pressurized in relation to land disputes and criminal cases, which ultimately created unbearable circumstances. It is further submitted that the deceased had disclosed the names of the accused persons prior to his death, which is a significant circumstance clearly pointing towards the involvement of the present applicant. The conduct of the accused, particularly in misusing influence through a co-accused serving in the police force, and repeatedly initiating proceedings to cancel bail or implicate the complainant's family, demonstrates a clear abuse of process and sustained harassment. There are also allegations of threats to harm the complainant's daughter and other family members, which shows the gravity and seriousness of the offence. It is submitted that custodial interrogation of the applicant is necessary to ascertain the extent of his involvement, the nature and

frequency of threats, and to collect material evidence for the purpose of investigation and filing of charge sheet. The past conduct of the applicant indicates that if released on anticipatory bail, he is likely to misuse his liberty, tamper with evidence, influence witnesses, and continue to harass the complainant and her family. The apprehension of the complainant is genuine and well-founded, particularly in light of previous incidents where even the complainant was driven to attempt suicide due to continuous harassment. It is further submitted that similarly placed co-accused have either been denied anticipatory bail or have withdrawn their applications before the Hon'ble High Court, which also reflects on the seriousness of the allegations. In such circumstances, granting anticipatory bail to the present applicant would not only hamper the investigation but would also embolden him to continue his illegal acts. In view of the aforesaid facts, the nature and gravity of the offence, the conduct of the applicant, and the likelihood of misuse of liberty, it is humbly submitted that the present application for anticipatory bail be rejected in the interest of justice.

- (4) Having duly considered the arguments presented and reviewed the affidavit filed by the Investigating Officer, as well as examined the investigation papers thoroughly and the bail application, I address the matter of the applicant's plea for anticipatory bail. Anticipatory bail is a power vested in exceptional circumstances and should not be treated as

a matter of routine. It should only be granted when a special case is clearly demonstrated. Furthermore, in light of the guidelines outlined by the Hon'ble Supreme Court in the case of ***Siddhram Mhatre (Supra)***, it is imperative to carefully evaluate requests for pre-arrest bail. These guidelines provide a framework for assessing the merits of such requests and underscore the importance of considering the specific circumstances of each case before making a determination.

1. *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
2. *The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
3. *The possibility of the applicant to flee from justice;*
4. *The possibility of the accused's likelihood to repeat similar or the other offences.*
5. *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
6. *Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
7. *The courts must evaluate the entire available material against the accused very carefully.*
8. *The court must also clearly comprehend the exact role of the accused*

in the case. The cases in which accused is implicated with the help of Sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

9. *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full - investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*

10. *The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant; Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.*

(5) I have carefully considered the submissions made by the applicant as well as the documentary evidence annexed with the bail application. The record on hand suggests that this court has granted bail to four of the co-accused considering the special status of being female. Further court has also rejected bail application of other co-accused. Considering the rival submissions and material on record, it appears that the name of the

applicant is specifically disclosed in the FIR as well as in the charge-sheet, wherein he is shown as absconding. The allegations indicate a prima facie role coupled with a history of enmity and continuous harassment. The requirement of custodial interrogation and the possibility of the applicant influencing witnesses or misusing liberty cannot be ruled out. In such circumstances, this Court is not inclined to exercise discretion in favour of the applicant. Hence, the application deserves to be rejected. Accordingly, I pass the following order:

-: O R D E R :-

- [1] The present application for anticipatory bail of the applicant named **Jigneshkumar @ Jigo Ashokbhai Makwana** is hereby rejected.
- [2] Copy of the order to be furnished to the concerned trial court and concerned police station.

Signed & Pronounced in the open Court today on this 17th day of March, 2026.

Date : 17/03/2026.

Place: Ahmedabad.

(Mr. Advait Surendra Vyas)
5th Additional Sessions Judge,
(Unique ID Code: GJ00709)