

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

Criminal Misc. Application No. 111 / 2026

Exh.

Applicant/

Accused:

1. Dhirubhai Mohanbhai Rashamiya (Makwana)

Age : 59 years, Occupation : Labour work,

2. Jagjivanbhai Jethabhai Rashamiya (Makwana)

Age : 62 years, Occupation : Labour work,

Both Resident of : Mirawadi, Shankar Society,

Dhandhuka, 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 applicants : Mr. M. R. Vaidhya

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 applicants have 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 learned advocate for the applicants has filed a pursis stating that applicant No.2 has surrendered before the police; hence, the present application is not pressed qua applicant No.2. He has advanced submissions only on behalf of applicant No.1. It is submitted that applicant No.1 is a 59-year-old person engaged in the work of boot polishing and has no connection whatsoever with the alleged offence. His name has been falsely implicated merely because he is a witness in certain cases against the complainant, and with a view to exert pressure, he has been roped in. It is further contended that prior threats were extended by the complainant to falsely implicate them, which is evident from the representation already made to the police. On a plain reading of the complaint, as many as 22 persons have been named for a single alleged offence of abetment of suicide, which, by any reasonable standard, appears highly improbable. The allegations are vague, omnibus, and indicative of deep-rooted animosity between the parties, suggesting that the complaint is filed with an oblique motive to harass and pressurize the applicants. It is further submitted that on the very day of the alleged incident, the deceased had appeared before the Hon'ble High Court for a hearing, which itself casts doubt on the prosecution

story. Moreover, the complainant and family members are legally well aware; had there been any real threats of such magnitude, they would have approached the police earlier. Additionally, the FIR reveals that several accused persons do not even reside within the jurisdiction where the deceased resided, further weakening the credibility of the allegations. We have never met deceased. We rely upon following judgments:

1) *Prakash & Ors. V/s. The State of Maharashtra & Anr.*

2) *Mahendra Awase V/s. The State of Madhya Pradesh.*

Thus, considering other submissions made in the bail application, the applicant deserves to be enlarged on anticipatory bail.

- (3) The Learned DGP has submitted that all the bail applications filed by other accused are rejected by this court. Every accused has specific role and whatever arguments given by the applicant side are based on presumption. So bail should not be granted.

The original complainant submitted written objections vide Exh.10. Where it is submitted that the applicants have longstanding animosity with her family and have persistently harassed her deceased husband through threats, false cases, and pressure tactics to withdraw from earlier proceedings. It is alleged that such continuous harassment led to the suicide, wherein the deceased disclosed the names of the applicants. The complainant further submits that the applicants are

influential, headstrong, and connected with a co-accused serving in the police force, due to which many incidents remain unreported. Past incidents, including threats to the deceased as a witness and earlier suicide in the family, are also highlighted to show a pattern of intimidation. It is contended that if released on bail, the applicants would misuse their liberty, threaten witnesses, and force compromise. The necessity of custodial interrogation is emphasized to ascertain the extent of threats and involvement. The complainant also points out that while some co-accused were granted bail on limited grounds, other applications have been rejected, and one was withdrawn before the High Court. Additionally, antecedents of applicant No.2 are cited. Hence, considering the serious role and active involvement of the applicants, rejection of anticipatory bail is prayed for.

- (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) Having heard the learned advocates for the parties and upon perusal of the material on record, this Court has also considered the principles laid down in the judgments relied upon by the learned advocate for the applicant. However, the said principles are distinguishable on facts and do not assist the applicant in the present case. The allegations against the applicant disclose a prima facie case of continuous harassment and intimidation leading to the suicide of the deceased. At this stage, the contention of false implication and general allegations involving multiple accused cannot be examined in detail. The record indicates specific role attributed to the applicant coupled with antecedent animosity, which

requires thorough investigation. Considering the submissions of the learned DGP, the detailed objections filed by the complainant, the requirement of custodial interrogation, and the likelihood of the applicant influencing witnesses or hampering the investigation, this Court is not inclined to exercise discretion in favour of the applicant. Hence, the application for anticipatory bail 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 **Dhirubhai Mohanbhai Rashamiya (Makwana)** is hereby rejected.
- [2] Accused **Jagjivanbhai Jethabhai Rashamiya (Makwana)** has surrendered before the police and has not pressed the present application for bail. Accordingly, the present bail application is treated as withdrawn qua him and no order is passed in his regard.
- [3] 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 20th day of March, 2026.

Date : 20/03/2026.
Place: Ahmedabad.

R.R.Dave, PS

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