

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

Criminal Misc. Application No. 112 / 2026

Exh.

Applicant/

Accused:

1. Amrutbhai @ Amit Dhirubhai Makwana (Rashamiya)

Age : 36 years, Occupation : Labour work,

2. Bharatbhai Dhirubhai Makwana (Rashamiya)

Age : 38 years, Occupation : Labour work,

3. Ashokbhai @ Pappubhai Parshottambhai Makwana (Rashamiya)

Age : 48 years, Occupation : Labour work,

4. Kamleshbhai Pravinbhai Makwana (Rashamiya)

Age : 39 years, Occupation : Labour work,

All Resident of : Mirawadi, Dhandhuka,

Dist. Ahmedabad.

V E R S U S

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. M. A. Pathan

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

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

J U D G E M E N T

- (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 Ld. advocate representing the applicants has argued that they are innocent, law-abiding citizens who have been falsely implicated in the present FIR due to longstanding enmity between the parties, and that no prima facie offence under the Bharatiya Nyaya Sanhita is made out against them. It is submitted that their names have been wrongly invoked without any nexus to the alleged crime and that the FIR is a counterblast to an earlier FIR of 2024 lodged by the accused side against the complainant's family. The applicants highlight a series of prior litigations and FIRs between both sides, demonstrating deep-rooted animosity, including instances where members of the complainant's side faced bail cancellation and legal restrictions imposed by the High Court of Gujarat, which allegedly motivated the present false complaint. They argue that the allegations lack essential ingredients of abetment under Section 108 BNS, such as mens rea, instigation, or

proximity, and are based only on vague, omnibus statements without specific acts or presence at the scene, further supported by alibi evidence including CCTV footage. The applicants assert that no such incident occurred on the alleged date and that the complaint is fabricated to exert pressure. It is further submitted that mere harassment or prior disputes do not constitute abetment, as per settled legal principles. The applicants emphasize absence of material evidence, their cooperation with investigation, fixed residence, and lack of significant criminal antecedents. They also cite personal hardships, being sole breadwinners with dependent family members facing medical issues. Relying on judicial precedents including decisions of the Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre and Gurbaksh Singh Sibbia***, and observations of the Delhi High Court, it is argued that arrest should be a last resort and bail should not be denied on mere allegations. While noting that bail for some co-accused has been rejected and granted to others on differing grounds, the applicants submit that denial of anticipatory bail would cause irreparable harm to their reputation. Hence, they pray for grant of anticipatory bail and interim protection from arrest on suitable conditions in connection with the FIR registered at Dhandhuka Police Station.

Here accused No.2 Bharatbhai Makwana has passed the pursis and stated that they have surrendered before the police so they are not pressing for relief of anticipatory bail. Accordingly, he is permitted.

- (3) The Learned DGP has argued that counter blast of complaint is not the ground to grant the bail. All the applicants have specific role and having strong history of animosity. In that case, bail should not be granted.

The original complainant filed written objections vide Exh.10. Where Jyotiben Rakeshbhai Vinubhai Zala, the original complainant in FIR No. 11192018250614 of 2025 registered at Dhandhuka Police Station, states that she is fully aware of the facts of the case and opposes the anticipatory bail application. She asserts that the Applicants have longstanding enmity with her and her family and have continuously harassed her deceased husband and relatives, including filing false cases and exerting pressure through threats and coercion. The Applicants are alleged to have direct involvement in the offence, and the deceased had reportedly named them prior to his death, indicating serious culpability. It is contended that if granted anticipatory bail, the Applicants would misuse their liberty to further intimidate, harass, and force the complainant into compromise, as done previously, which allegedly led to unbearable harassment and ultimately the deceased's suicide. The complainant also highlights repeated threats, attempts to implicate the family in false cases, abuse of influence through a co-accused police officer, and prior incidents of coercion, including pressuring the deceased to withdraw as a witness in an earlier suicide case. Custodial interrogation is stated to be necessary to uncover the extent of threats, harassment, and evidence. Additionally, the accused

allegedly created obstacles post-incident, threatened dispossession of land, and intimidated family members. While some co-accused were granted bail on grounds of general allegations, the present Applicants are described as main accused with active roles, and previous anticipatory bail applications of other co-accused have been rejected or withdrawn before the High Court of Gujarat. Hence, it is urged that the present anticipatory bail application be rejected.

- (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 respective parties and upon perusal of the material on record, it appears that the allegations against the present applicants cannot be termed as vague or omnibus at this stage. On the contrary, the record prima facie discloses a continuous course of conduct involving harassment, intimidation, and coercion allegedly meted out by the applicants to the deceased, which is stated to have culminated in the commission of suicide. The contention of the applicants that the FIR is a counterblast to earlier litigation and that no ingredients of abetment under Section 108 of the Bharatiya Nyaya Sanhita, 2023 are made out, involves disputed questions of fact which cannot be conclusively adjudicated at this stage of investigation. The material placed on record, including the assertions that the deceased had named the applicants prior to his death and the history of strained relations, prima facie indicate their involvement requiring thorough investigation. Considering the seriousness and gravity of the offence, the specific role attributed to the applicants, and the necessity of custodial interrogation to unearth the true facts and extent of involvement, this

Court is of the opinion that this is not a fit case to exercise discretion in favour of the applicants. Furthermore, the apprehension expressed by the complainant regarding the possibility of the applicants influencing witnesses or tampering with evidence also appears to be well-founded in the facts of the case. Hence, the present 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 applicants named **Amrutbhai @ Amit Dhirubhai Makwana (Rashamiya), Ashokbhai @ Pappubhai Parshottambhai Makwana (Rashamiya) and Kamleshbhai Pravinbhai Makwana (Rashamiya)** is hereby rejected.
- [2]** Accused No.2, namely **Bharatbhai Dhirubhai Makwana (Rashamiya)**, has withdrawn his prayer for anticipatory bail in the present application. Accordingly, the application stands disposed of as not pressed qua the said accused.
- [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 06th day of April, 2026.

Date : 06/04/2026.
Place: Ahmedabad.

R.R.Dave, PS

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