

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

Criminal Misc. Application No. 169 / 2026

Exh.

**Applicant/
Accused:**

Sujit Santosh Thale

Age : 19 years, Occupation : Student,
Resident of : M-1, Gokul Dham Apartment,
B/h. Police Chowki, Vejalpur,
Ahmedabad.

VERSUS

Opponent :

1. The State of Gujarat

to be served through
Learned District Government Prosecutor
at District & Sessions Court,
Ahmedabad.

2. The original complainant

APPEARANCE

Learned Advocate for the applicant : Mr. K. R. Sharma
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 applicant has preferred present application under Section 482 of

Bharatiya Nagarik Suraksha Sanhita, seeking anticipatory bail in connection with the FIR I No.11191028250559/2025, lodged with Vejalpur Police Station, Ahmedabad for the offence punishable u/s. 3(2) (va), 3(1)(r), 3(1)(s) of Atrocity Act, Section 118(1), 115(2), 296(b), 54 of BNS and Section 135(1) of G.P.Act.

- (2) The advocate representing the applicant has argued that my name is not mentioned in the complaint and as per the police affidavit, I have inflicted injuries with the fist-blow. Further this court has already granted regular bail to co-accused so we are requesting for benefit of parity. Further we have stated adequate reasons in the bail application and that may be considered and we may be granted anticipatory bail.
- (3) The Learned DGP has argued that the police affidavit suggests that applicant has role in the offence and that is evident from the CCTV footage. Further though all the accused are released on regular bail, the applicant has prayed for anticipatory bail that is prohibited by provision of Section 18A of the Act. Hence bail may be rejected.

The original complainant has approached the court through video conference facility and stated that still the accused are harassing him on daily basis so bail may not be granted.

- (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 applicant has preferred the present application under Section 438 of the

Code of Criminal Procedure seeking anticipatory bail in connection with the offence registered under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. At the outset, it is required to be noted that Section 18 and Section 18(A) of the said Act create a statutory bar for granting anticipatory bail where a prima facie case under the Act is disclosed. The legislative intent behind incorporating Section 18(A) is to ensure that persons accused of offences under the Act do not easily obtain protection under anticipatory bail, unless the Court is satisfied that no prima facie case is made out. In the present case, the learned advocate for the applicant has mainly argued on the ground of parity by contending that this Court has already granted regular bail to the co-accused persons. However, this contention does not merit acceptance. The co-accused persons have been granted regular bail after arrest, whereas the present application is one for anticipatory bail. The principles governing regular bail and anticipatory bail are different in nature. In cases arising under the Atrocities Act, when there exists a statutory bar under Section 18(A), the rule of parity cannot be applied mechanically. Therefore, the benefit granted to the co-accused after their arrest cannot be straightaway extended to the present applicant who seeks pre-arrest protection. Furthermore, the affidavit filed by the Investigating Officer clearly indicates that the name of the present applicant was not mentioned in the FIR at the initial stage. However, during the course of investigation, the CCTV footage collected

by the investigating agency prima facie reveals the presence of the applicant at the place of occurrence at the relevant time when the complainant was allegedly assaulted by the co-accused persons. Thus, the material collected during investigation connects the applicant with the incident and indicates his presence during the commission of the offence. It is also noteworthy that the applicant himself has contended that he had inflicted only a fist blow on the complainant. Even though the applicant attempts to minimize his role, such admission itself indicates his participation in the incident. At this stage, such admission prima facie supports the case of the prosecution and reflects the involvement of the applicant in the alleged offence. Therefore, the argument that the applicant had only a limited role cannot be accepted while considering an application for anticipatory bail, particularly in view of the statutory embargo under Section 18(A) of the Atrocities Act. Considering the nature of allegations, the material collected during investigation including the CCTV footage showing the presence of the applicant at the scene of offence, and the admission regarding participation in the assault, this Court is of the opinion that a prima facie case is made out against the applicant. In such circumstances, the statutory bar contained in Section 18(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would operate, thereby restricting the exercise of discretion under Section 438 of the Code. In view of the aforesaid discussion, this Court is not inclined to exercise discretion in favour of

the applicant. Accordingly, 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 applicant named **Sujit Santosh Thale** is hereby rejected.

Yadi of the order to be furnished to the concerned police station.

Signed & Pronounced in the open Court today on this 01st day of April, 2026.

Date : 01/04/2026.

Place: Ahmedabad.

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