

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

Criminal Misc. Application No. 616 / 2026

Exh.

Applicant/ Maheshgiri Prakashgiri Goswami

Accused:

Age : 49 years, Occupation : Driving,
Resident of : Narmada Awas Yojna, Kathwada Road,
Near Dastan Circle, Daskroi, Nikol,
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. H. Makwana

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 No.11191015260004/2026, lodged with Nikol Police Station, Ahmedabad for the offences punishable u/s. 296(b) of B.N.S. and Section 3(1)(s), 3(2)(l) of the Atrocities Act.

- (2) The advocate representing the applicant has argued that the entire complaint is created on forged premise and it is a result of counterblast in context that we have also filed a complaint against present complainant. We have never uttered any defamatory remarks against the complainant. In fact, we are the Chairman of the society and when we go for asking maintenance, we are threatened with the false complaint. Which is evident from the list of documents adduced along with the bail application. It is transpired from the documents that there are many people in the society who misuse the provision of Atrocity Act and involved persons like us in serious offences with false complaint. If I may not be given anticipatory bail then I may have to pass through entire process. So bail may be granted considering the other submissions made in the bail application.
- (3) The Learned DGP has argued that applicant prayed for anticipatory bail and that too in Atrocity case which is barred by provision of Section 18A and so bail should not be granted. Here the original complainant herself remain present before the court and submitted his written objections vide Exh.8 as to protest request for anticipatory bail. He has again submitted the incident and stated that the applicant and other members of the society are harassing his family just because they are from the

scheduled caste community. So bail may 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) I have thoroughly examined the arguments advanced by the applicant, the documentary evidence provided with the bail application and written objections submitted by the original complainant. Further, the applicant is charged for atrocity act and as per the statutory provisions, the anticipatory bail application is restrained by provisions of section 18A. As per the guiding principles of *Pruthviraj Chauhan (supra)* case, the anticipatory bail in atrocity can be considered only when no case is made out on prima facie reading of the FIR. Here the police affidavit clearly indicates role of applicant as he abused complainant and his sister along with the family members. It is also alleged in the complaint that abusive language and insult of the complainant and family members is common phenomena. Hence the role of the applicant is evident from the FIR. In that case the applicant should not be granted benefit of pre-arrest bail as the primary allegation in the FIR indicate prima facie involvement of the applicant. In that case, I pass the following order:

-: O R D E R :-

[1] The present application for anticipatory bail of the applicant named **Maheshgiri Prakashgiri Goswami** is hereby rejected.

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)