

CRI. MISC. APPLN. No. 125/2026

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Exhibit :

**IN THE COURT OF 9th ADDITIONAL SESSIONS JUDGE,
GANDHIDHAM -KACHCHH**

CRI. MISC. APPLN. No. 125/2026

APPLICANT : **Hanif Saleh Mohmammad Talu**
Age : 64 years, Occupation : Business,
Residing at Opp. Sati Maa Dairy,
Nr. Madina Masjid, Upleta,
Rajkot.

Versus

OPPONENT : **The State of Gujarat**

Appearance :-

Mr. H C Chaudhary, Ld. Advocate for the applicant/accused.
Ms. H P Gadhvi, Ld.A.P.P. for the opponent- State.

:-Judgment:-

1. The applicant apprehends his arrest in connection with in F.I.R. bearing CR. No.11993007260121/2026 which came to be registered before Gandhidham B Division Police Station for the alleged commission of offences punishable under Section 406, 420, 465, 467, 468, 471, 506(2) and 114 of the Indian Penal Code. Therefore, seeks anticipatory bail under the provisions contained in Section

482 of the BNSS.

2. The sum and substance of the allegations in a nut shell are such that the accused persons in collusion with each other and with common intention, cheated the complainant and committed criminal breach of trust. By taking the complainant into confidence, Accused No. 01 took money from the complainant on the pretext of doing business but failed to return Rs.32,50,000/- (Rupees Thirty-Two Lakh Fifty Thousand) out of the amount taken. Further, the complainant's company BAT Intercontinental Corporation Pvt. Ltd. exported used clothing goods at different times from foreign countries to U.S. Clothing and Texpoly Impex Co. The total value of the goods supplied was USD 6,749,913.91 (approximately Rs.61,88,32,107/-). Out of this amount, the said two companies paid USD 4,240,988.69 (approximately Rs.38,88,13,843/-) to the complainant's company. However, the remaining amount payable to BAT Intercontinental Corporation Pvt. Ltd., totaling USD 2,508,985.22 (approximately Rs.23,00,23,764/-), was not paid, thereby committing breach of trust and cheating the complainant. It is further alleged that with the intention of cheating, the accused persons misrepresented the actual value of the goods by showing a lower value than the real price, thereby obtaining financial benefit through collusion and distributing the profits among themselves. Additionally, Rafiq Bara, a partner of Texpoly Impex, had taken Rs.96,00,000/- from the complainant's company BAT Corp India, out of which Rs.60,00,000/- has not been returned. The accused persons also issued threats to kill the complainant. Moreover, the accused

prepared forged high-value invoices bearing false signatures and seals of the A-to-Z Company, which were deposited in the bank. On the basis of such forged invoices, an amount of USD 2,120,395.94 (approximately Rs.19,43,97,899/-) was deposited in the A-to-Z Company's account through ICICI Bank on different occasions, thereby committing the offence.

3. The Ld. Advocate Mr. H. C. Chaudhary for the applicant/accused has argued that the applicant/accused has been falsely implicated in the present offence; the allegations made in the complaint against the applicant are incorrect, exaggerated and contrary to the actual financial transactions that took place between the complainant's company and the applicant's company; the complainant and his partner Accused No.1 – Gurvindersingh met the applicant in the year 2020 at the office of the applicant's company U.S. Clothing, situated at KASEZ, Gandhidham; thereafter, business transactions commenced between U.S. Clothing (applicant's company) and BAT Intercontinental Corporation Pvt. Ltd. (complainant's company); during the years 2020–2021, the total business transaction between the companies was USD 2,68,910; out of this amount, USD 1,61,205 has already been paid by the applicant's company through banking channels; the remaining USD 1,07,705 was adjusted towards quality claim deduction of goods, which was accepted by the complainant's company; the said quality claim deduction was formally communicated to Axis Bank Forex Team, Gandhidham Branch on 11/06/2025; the complainant's company itself confirmed the said deduction through email dated 13/06/2025;

therefore, the complainant's company has no outstanding dues against the applicant's company; the allegations regarding forged invoices of A-to-Z Company are specifically against Accused No.2 – Mohammad Rafiq Bara; the present applicant has no connection whatsoever with A-to-Z Company, its invoices, signatures or seals, and therefore the allegations under Sections 465, 467, 468 and 471 IPC do not apply to the applicant; the applicant has no partnership, business association, or managerial role with the other accused persons or their companies; the applicant's company U.S. Clothing (India) Pvt. Ltd. is an independent entity; even if the allegations in the complaint are accepted for the sake of argument, the entire dispute arises from commercial transactions between companies, which at best amounts to breach of contract; it is settled law that purely civil disputes should not be given criminal colour merely to exert pressure on the accused; the alleged transactions occurred during 2020–2021, whereas the complaint has been lodged after several years without any prior written or oral demand for the alleged outstanding amount; this itself shows that the complaint is an afterthought; the applicant is a local resident of Rajkot and possesses immovable and movable properties; the applicant/accused has no criminal antecedents; the applicant/accused is not likely to flee away and his presence can be procured at the time of trial; that the applicant/accused is ready and willing to co-operate with the investigation; that merely granting of anticipatory bail to the accused is not going to hamper investigation; that there is no prima facie evidence. It has been ultimately urged to grant bail on the conditions as deemed

appropriate to Hon'ble Court.

4. The Ld. APP Ms. H P Gadhvi for the state has submitted that the present case involves serious economic offences of cheating, criminal breach of trust and forgery under Sections 406, 420, 465, 467, 468, 471, 506(2) and 114 of the IPC; the magnitude of the financial transactions involved is very large, running into crores of rupees, and therefore the matter requires thorough investigation; from the affidavit of the Investigating Officer, particularly Paragraphs 16 and 18, it clearly appears that the present applicant is connected with the business transactions under investigation; the documents collected during investigation show that the applicant was associated with the company involved in the export-import transactions, and the transactions were carried out through the company in which the applicant has a role; during investigation it has surfaced that a large number of containers of used clothing were ordered and exported/imported, and discrepancies have been noticed in the records regarding the quantity and valuation of the goods; the investigation is still at a very crucial stage, and several documents and financial trails are yet to be examined; the bank statements and financial documents collected by the Investigating Agency indicate that substantial transactions have taken place through the accounts connected with the applicant and the concerned companies; the exact nature of these transactions and the alleged misappropriation of funds are still under investigation; the investigation also reveals that the applicant had business dealings with the co-accused persons, including Mohammad Rafiq Bara,

who is alleged to have played a major role in the offence; it has also come on record that the said co-accused has criminal antecedents, including a serious offence, which indicates the gravity of the criminal conspiracy; considering the complex financial transactions, involvement of multiple companies, and suspected forgery of documents, the custodial interrogation of the applicant is necessary to ascertain the true facts and to trace the financial trail; if anticipatory bail is granted at this stage, there is a serious possibility that the applicant may influence witnesses, tamper with documentary evidence, or hamper the ongoing investigation; it is well settled by the Hon'ble Supreme Court that economic offences affecting the financial system are required to be viewed seriously, and courts should exercise greater caution while granting anticipatory bail in such cases; therefore, considering the seriousness of the allegations, the magnitude of the financial transactions, and the ongoing investigation, it is respectfully submitted that this is not a fit case for granting anticipatory bail; hence, the anticipatory bail application deserves to be rejected.

5. As the present application is filed under Section 482 of the BNSS, 2023 for anticipatory bail, the following judgment of the Hon'ble Gujarat High Court is required to be taken into consideration. In the case of *Nirmil Jitendrabhai Shah V/s State of Gujarat, 2024(0) AIJEL-HC 248157*, it is held as under -

"12. A close look to Section 438 Cr.PC demonstrates that grant of anticipatory bail is a matter of judicial discretion and the Court must be satisfied that a fit case had been made out

by accused for exercise of such discretion. The Court has to make an effort to strike a balance between the individual's right to personal freedom and the investigational rights of the police. The provisions of Section 438 Cr.PC are not to be applied mechanically. The phraseology "if it thinks fit" available in the body of the Section reading with Section 438 (2) of the Cr.PC is indicative enough that such order on the face of it must show the reasons for granting anticipatory bail."

6. At this juncture, reference also needs to be made towards the judgment of the Hon'ble Gujarat High Court in the case of ***Baraiya Rameshbhai Kamalshibhai V/s State of Gujarat 2023(0) AIJEL-HC 247589*** wherein it is inter-alia held in Para-19 as under :

"19.1 Further, in the case of *Pratibha Manchanda V/s The State of Haryana*, reported in AIR 2023 SC 3307, wherein the Hon'ble Apex Court has held in Para-19 as under:

19. The relief of Anticipatory Bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interest of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the Court must also consider the gravity of the offence, the impact of the society,

and the need for a fair and free investigation, the Courts discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.

*20. Further, keeping in mind law laid down by the Hon'ble Supreme Court in the case of Siddharam Satlingappa Mhetre V/s State of Maharashtra reported in (2011) 1 SCC 694. Herein, I have gone through the material available against the accused very carefully and it appears that herein, no complaints has been made with a view to humiliating or tarnish the image of the represent applicant. Even in Jayprakashsingh V/s State of Bihar (2012) 4 SCC 379. Hon'ble Supreme Court pleased to hold, "Parameters for grant of anticipatory bail in a serious offences are required to be satisfied and further while granting such relief, the Court must record reasons therefore. **Anticipatory bail can be granted only in exceptional circumstances where the Court is Prima-facie of the opinion that the applicant has falsely been enroped in the crime and would not misuse his liberty.**"*

7. Keeping in mind the above quoted ratio laid down by the Hon'ble Apex Court, this Court is duty bound to ensure that the discretion of granting anticipatory bail is exercised in rare circumstances where this Court is prima facie of the opinion that the applicant has been falsely enroped. As observed by the Apex Court in the case of *Devinder Kumar Bansal v. State of Punjab reported in 2025 (4) SCC 493*, "23. The presumption of innocence, by itself, cannot be

the sole consideration for grant of anticipatory bail. The presumption of innocence is one of the considerations, which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice." At the outset, it appears from the contents of the FIR and the material collected during the course of investigation that the allegations against the accused persons are of serious economic offences involving cheating, criminal breach of trust and forgery of documents. The prosecution case reveals that huge financial transactions have taken place between the complainant's company and the companies associated with the accused persons, and the alleged amount involved in the offence runs into several crores of rupees. From the record, it further appears that the complainant's company had exported large quantities of used clothing goods to the companies of the accused persons and substantial payments were received, however a considerable amount is alleged to have remained unpaid. The prosecution has also alleged that the accused persons in collusion with each other misrepresented the value of goods and created forged invoices bearing false signatures and seals, and thereby caused wrongful loss to the complainant and corresponding wrongful gain to themselves. The learned Advocate for the applicant has vehemently contended that the dispute between the parties is purely of a civil nature arising out of commercial transactions and that the applicant has already made payments through banking channels and the remaining amount was

adjusted towards quality claim deduction which was accepted by the complainant's company. It is also contended that the applicant has no connection with the alleged forged invoices of A-to-Z Company and that the role attributed to the applicant is minimal. However, at this stage of investigation, the material placed on record, particularly the affidavit of the Investigating Officer and the documents collected during investigation, prima facie indicate that the applicant was associated with the business transactions under scrutiny and the financial dealings between the concerned companies require detailed investigation. The Investigating Agency has also pointed out that there are discrepancies in the quantity and valuation of the goods exported and imported, and the financial trail of the transactions is yet to be completely unearthed. It is also required to be noted that the alleged offence involves multiple companies, international trade transactions and large scale financial dealings, and therefore the investigation is still at a crucial stage. In such circumstances, the Investigating Agency requires sufficient opportunity to thoroughly investigate the matter and to ascertain the role played by each of the accused persons. The contention of the applicant that the dispute is purely civil in nature cannot be accepted at this stage, as the allegations in the FIR disclose prima facie ingredients of cheating, criminal breach of trust and forgery, which require proper investigation. The Investigating Agency has also specifically contended that custodial interrogation of the applicant is necessary for the purpose of tracing the financial transactions, verifying the documentary evidence and unearthing the larger conspiracy alleged in the FIR. If anticipatory bail is

granted at this stage, there is a reasonable apprehension that the applicant may hamper the investigation or tamper with the documentary evidence. It is a settled position of law that economic offences involving huge financial transactions are required to be viewed seriously, as such offences affect not only the complainant but also have wider implications on commercial dealings and the financial system. Considering the nature and gravity of the allegations, the magnitude of the amount involved, the stage of investigation and the necessity of custodial interrogation, this Court is of the opinion that the present case is not a fit case to exercise the discretionary relief of anticipatory bail in favour of the applicant. Therefore, without further discussion, I pass the following order:

:: ORDER ::

- The present application is hereby rejected.

Order pronounced in the open Court on this Twelfth day of March, Two Thousand Twenty Six.

DATE : 12/03/2026
Gandhidham.

(LALIT DILIP WAGH)
9th ADDITIONAL SESSIONS JUDGE,
Gandhidham -Kachchh.
UI Code No.GJ01087.