RECEIVED ON	17	03	2026
REGISTERED ON	17	03	2026
DECIDED ON	01	04	2026
DURATION	14	00	00
	DAYS	MONTH	YEAR

Exh. : __

**BEFORE THE 4TH ADDITIONAL SESSIONS JUDGE
AT RAJKOT**

Cr. Misc. App (Anticipatory Bail) No.807 of 2026

Kapil Narendra Dasani,
Age :45 Years
Occupation : Practicing Chartered Accountant,
Resident : Dream Exotica Flat -101,
Janki Park, Kalawad Road, Opp. Efil Tower,
R A J K O T ... ... **APPLICANT**

V E R S U S

State of Gujarat,
Notice to be served through
The DGP, Rajkot. ... ... **OPPONENT**

Appearance
Learned Advocate Mr. Fenil. M. Mehta for the applicant.
Learned D.G.P. Mr. S. K. Vora, for the opponent.

Application U/s. 482 of the Code of B.N.S.S. 2023

J U D G M E N T

1] It is apprehended by the applicant that, he may be arrested on accusation of having been committed offense punishable under **Section 132(1) of the Central / Gujarat Goods & Services Tax Act, 2017 in connection with the summons under Section 70(1) of The Central Goods and Services Tax Act, 2017, issued by Senior Tax Officer (3), Unit-94, Gondal dated 05.03.2026, 06.03.2026 and 09.03.2026.** Hence, present application **under Section 482 of B. N. S. S., 2023,** is filed to issue necessary directions to the Investigating Officer to release the applicant on bail in the event of his arrest.

2] On being served with the process, the Learned D.G.P. Mr. S. K. Vora appeared for the opponent. Mr. Shivraj Kathubhai Varu, State Tax Officer, Unit-94, Gondal Division-10 Rajkot has submitted his affidavit in reply at **Exh.6**.

3] The Learned Advocate for the applicant submits that applicant is a practicing Chartered Accountant and he is not engaged in any business involving manufacturing, trading of goods or non-professional services. The learned Advocate has mainly submitted the following grounds in respect of the present application;

(a) It stated that Competent Officers of the GST, Unit-94, Gondal had carried out search operation on 05.03.2026 and 06.03.2026 at the office of present applicant and seized the electronic devices and mainly on the basis of the such seized electronic devices the present applicant is implicated.

(b) It is contended by the applicant that the concerned firm might have evaded any goods and service tax, if any and concerned person of firm could be liable for paying such Goods and Service Tax and penal liability if any, but their Chartered Account cannot be made liable to pay any Goods and Service Tax, for any tax evasion by firms, if any, of whose amount the applicant used to maintain or to audit, and further stated that as he is not registered under CGST/GGST Act, 2017 therefore, he cannot be held liable to commit any offence u/s 132(1) of the CGST/GGST Act, 2017.

(c) It is contented that as the applicant neither the issuer of any alleged invoices nor the person orchestrating any such transactions and therefore, it cannot be said the present applicant is directly or indirectly involved in the present transaction therefore, he should only face Civil penalties if any, under Section 122 rather than the drastic measure of arrest under Section 132 as it requires direct involvement specified fraud with proven criminal intent. In addition to this, it is contended that the recovery procedure under Section 73 of the CGST/GGST, 2017 is prescribed and mechanism of recovery is provided under Sections 78 and 79 of the Act and appeal provisions are also under Sections 107,112,117 and 118 of the CGST/GGST, Act, 2017 and therefore, as the structured statutory safeguards and remedies are available, the mater essentially revenue oriented, and therefore, resorting to arrest is unwarranted and unjustified.

(d) It is further contented that the offenses prescribed under Section 132(1) of the CGST/GGST Act are compoundable u/s 138 of the CGST/GGST Act, 2017 and the compounding proceedings are primarily revenue-oriented rather than punitive and therefore, rigorous custodial arrest is not required.

(e) It is contended that the maximum punishment under Section 132(1) of the CGST/GGST Act is five years. Relying upon the decision of Apex Court and various High Courts in **Satender Kumar Antil V/s CBI and Asfak Alam V/s State of Jharkhand**, authorities must strictly follow Section 41A of the CrPC for offenses punishable by up to seven years. Consequently, the authorities are mandated to avoid mechanical arrests and must apply due diligence before taking mechanical arrests.

(f) It is contended that the statements recorded by the authorities are wholly inadmissible under Section 23(1) of the Bhartiya Sakshya Adhiniyam, 2023 which prohibits using confessions made to police officers as evidence and this Police officer designation extends to GST authorities who exercise similar investigative and prosecutorial powers, rendering their recorded statements legally void. Additionally, the submission claim such confession are often produced of coercion or duress rather than free will. Since, a confession must be voluntary to be reliable, these statements fails both the statutory and constitutional tests for admissibility and should be excluded from the proceedings.

Withe above grounds the learned Advocate has submitted that the applicant is absolutely innocent and has not committed any of the offence under the GST Act and there is no prima facie case against applicant, opponent is trying to falsely implicate the applicant for the alleged offences under Section 132 of GST Act. It is argued that there is no even an iota of evidence against applicant and instead of completing adjudication and determining liability, if any, of the clients of applicant, opponent is resorting to extreme coercive methods in order to arrest the applicant and enforce recovery by way of means. It is contended that applicant files periodical returns under GST Act as per data provided by such clients and he has no authority or means to ascertain genuineness of claims made in such returns being filed and relationship between applicant and his clients are fiduciary in nature and applicant is not responsible for violation of the laws on the part of his clients, if any. It is argued that applicant is a reputed Chartered Accountant and office premises of applicant have already been searched and documentary as well as electronic records have also been collected and no further recovery is pending against applicant. Further submitted that alleged offence is triable by Magistrate and maximum punishment under the aforesaid provisions is simple imprisonment for a term which may extend to five years and with fine and alleged offence is also compoundable offence. Further submitted that entire investigation is based on documentary and electronic evidence which are already in the possession of opponent, therefore, possibility of any tampering with the same is also ruled out. Further submitted that applicant is permanent resident of Rajkot and having responsibility of entire family and readily available as and when require. Also submitted that if the opponent is directed to be released the applicant on bail in the event of his arrest then prosecution case is not going to suffer and applicant is ready and willing to abide by all the stringent terms and conditions in case of his release on bail in the event of his arrest. On such grounds, Learned Advocate for the applicant has prayed to allow the present application and to grant anticipatory bail to the applicant. In support of his submissions, Learned Advocate for the applicant has placed his reliance on following judgments of the Sessions Court, Jamnagar, Hon'ble High Court of Gujarat and Hon'ble Supreme Court which have been considered by this Court.

(1) Oral Order of the Hon'ble High Court of Gujarat in R/Criminal Misc. Application No.3175/2019 in the case of Lalitbhai Natvarlal Patel V/s. R. I. Pandey.

(2) Judgment of the Hon'ble Supreme Court in Criminal Appeal No. /2023 in the case of Rajesh Kumar Dudani V/s. The State of Uttarakhand & Anr.

(3) Judgment of Hon'ble Supreme Court in the case of Bal Mukund Vaishnav V/s The State of Maharashtra, Petition(s) for Special Leave to Appeal (Crl.) Nos. 2137/2023.

(4) Judgment of the Hon'ble Supreme Court in Writ Petition (Criminal)No.336/2018 in the case of Radhika Agarwal V/s. Union of India and Others.

(5) Judgment of the Hon’ble Supreme Court in Special Leave Peetition (Criminal) No.7532, 7533, 7534/2025 in the case of P. Krishna Mohan Reddy V/s. The State of Andhra Pradesh.
(6) Hon’ble Supreme Court in the case of Satender Kumar Antil V/s Central Bureau of Investigating, 2022 Livelaw (SC) 577.
(7) Hon’ble Gujarat High Court in the case of Solanki Ravi Dipu V/s State of Gujarat, CRMA No. 2681/91.
(8) Hon’ble Supreme Court in the case of State of Rajasthan V/s Balchand, 1977 (4) SCC 308.

4] Per contra the Learned DGP Mr. S. K. Vora has appeared on behalf of the opponent-Authority and opposed the grant of relief stating and contending that, the applicant is actively involved in the offence and also attributed substantial role in the commission of offence. He has also submitted affidavit in reply to the bail application wherein it is stated that investigation was initiated against M/s Surya Hybrid (India) Private Limited (GSTIN:24AECV3384M1ZX) the basis of analysis of their GST returns which indicated irregular avilment and passing on of fake / ineligible input tax credit (ITC) and it was found that said firms had suo moto generated ITC and fraudulently passed on ineligible ITC amounting to Rs.22,95,59,656 Cr. It is further stated that some outward e-way bills were generated by the firm but there was no actual movement of goods. It is further stated that GST returns is being filed by present applicant and commonality of returns filing location corroborates the indication of centralized control of the said firm and details of passed on input tax credit (ITC) to various other GSTINs is provided in table-1 of reply. It is further stated that the statement of present applicant was recorded on 05.03.2026, 06.03.2026, 10.03.2026 and 11.03.2026 wherein, he has admitted that he was associated with M/s surya India Pvt. Limited and the connected billing activity were being operated by him alongwith Rajivbhai Mehta and Others and also turnover was shown by carrying out internal circular billing through entities such a Prihan enterprise, R.B. & Sons and Arihant Enterpriese without physical movement of goods and these are non functional, non existent and fake entities created and operated only on paper and were deliberately used for generating bogus invoices, E-way bills and filing GST returns for the sole purpose of fraudulent availment and passing on of ineligible input tax credit (ITC) without any actual supply or movement of goods. It is also admitted by applicant that GST returns of all GSTINs forming the ITC chain were filled by him or under his instructions from his office premises which enabled the systematic flow of fake ITC across multiple successive levels till March-2025, invoices and E-way bills were generated despite there being no transport, logistics records or supporting documents. It is stated that on the basis of quantum of fraudulent availment and passing on of ITC, present applicant is linked with these firms and applicant was fully aware that underlying transactions were bogus and pertained to fake invoicing, however, continued to facilitate the fraudulent activity by filing GST returns for said firms, therefore, summons under Section 70 of CGST

Act, 2017 were issued on 05.03.2026, 06.03.2026 and 09.03.2026 to appear before opponent, however, applicant failed to appear till date despite repeated opportunities granted by investigating authority, applicant has continuously failed to appear and such conduct clearly reflects deliberate non co-operation with the investigation and an attempt to evade the due process of law. It is submitted that non appearance against multiple summons itself reflects non co-operation by applicant in further investigation. It is further contended that the applicant has admitted in the statement recorded on 11.03.2026 that he deliberately and consciously caused the destruction of material evidence connected with the fraudulent transaction under investigation and admittedly removed the inbuilt hard disk of his laptop which contained soft copies of data of M/S Surya Hybrid (India) Pvt. Ltd. regarding purchase bills, sale bills accounting records and other incriminating data and physically destroyed the same by burning it and throwing it on the Highway. The applicant has also deleted/formated all the date from his mobile phone including whatsapp chats through which billing details, invoice date and electronic records were being exchanged with co accused persons. Also stated that investigation is under process and now a days economic offences related to ineligible ITC availed and utilized on the basis of fake documents are rampant and should be dealt with due firmness as observed by the Hon’ble Supreme Court. It is further submitted that allegations of complainant has not been denied by the applicant, therefore, if applicant is granted anticipatory bail then no thorough investigation can be carried. It is further submitted that applicant is involved in the serious economic offence and thorough investigation is quite necessary which cannot be carried out without custodial interrogation of applicant, therefore, submitted that no discretionary power may be exercised in favour of applicant. In support of his submissions, Learned Special P. P. has placed his reliance on the following judgments which have been considered by this Court.

(1) Relied upon the decision in P.Chidamabaram Vs Directorate of Enforcement reported in (2019) 9 SCC 234 & Union of India V/s Padam Narain Aggarwal reported in (2008) 13 SCC 305, the Hon'ble Supreme Court held that the anticipatory bail is an exception and not the rule and the anticipatory bail stage the court does not conduct a mini trial; that interrogation is a recognized and more effective mode of interrogation.

(2) Relied upon the decision in CBI Vs/ Anil Sharma reported in (1997) 7 SCC 187, the Hon'ble Supreme Court held that custodial interrogation is qualitatively more useful than examination under the umbrella of anticipatory bail especially in the serious offences involving deeper and wider investigation.

(3) Relied upon the decision in Y.S. jagan Mohan Reddy V/s CBI reported in 2013 (7) SCC 439 and in

Nimmagadda Prasad V/s CBI reported in 2013 (7) SCC 466 the Hon'ble Supreme Court held that economic offences are grave in nature and involve deep-rooted conspiracy and require stricter approach in the matter of bail.

(4) The decision of Hon'ble Supreme Court in the case of The State of Gujarat Etc. Vs. Choodamani Parmeshwaran Iyer and Another Etc regarding GST Fraud matters.

5] I have heard the arguments of both sides at length and also considered the judgments upon which reliance has been placed by them. The learned Advocate for the applicant has filed a detailed citation of authorities of the Hon'ble Apex Courts and Hon'ble High Courts which are as under ;

(a) The decision of the Hon'ble Sessions Judge, Jamnagar in CRMA No.1557/2025 between Alkesh Harilal Pendhadiya, wherein the Court has granted Anticipatory Bail.

(b) Judgment in the case of Super Forgings & Steel Ltd. in Excise Appeal No. 380/2008 delivered by CESTAT, Kolkata & the Judgment of Hon'ble Supreme Court in the case of Ravindran @John in Cr. Apeal No. 1201 of 2025, wherein the Court held on the point of retracted statements.

(c) Judgment of Hon'ble Supreme Court in Criminal Apeal No. 152/2013 in Toofan Singh, wherein the Court has held that N.A/Bar u/s 25 applies to other officers.

(d) Judgment in the case of Hon'ble Bombay High Court in the case of Amit Manilal Hari in W.P.No.5000/2025 wherein it is held that since there was no material showing they were taxable persons or had retained benefit or caused transactions, even penalty orders u/s 122 were without jurisdiction.

(e) Judgment in the case of Shantanu Sanjay Hundekari in SP No.30198, 30199 delivered by the Hon'ble Bombay High Court wherein the Hon'ble Court held that "when a person is neither a taxable nor a registered person so as to retain any benefit as provision ordains qua employee; impugned penalty u/s 122 was to be set aside.

(f) The judgment of Hon'ble Punjab & Haryana High Court in the case of Akhil Krishan Maggu in CWP No.24195 of 2019 wherein it is held that arrest of chartered accountant or advocates had filed returns or business but are not beneficiary or part of fraud merely on the basis of statement without corroborative evidence linking the professional with alleged offence should be avoided.

(g) The judgment in the case of Vivek Mishra in Cr. M.A. No. 13703/2023 wherein it is held that bail was to be granted when he was neither owner of firm involved in crime nor had any criminal history.

6] While appreciating the rivalry submissions in the light of the factual aspects of the case leads this Court to believe that at the time of dealing with the anticipatory bail application the parameters as laid down by the Hon'ble Supreme Court in the catena of decisions are required to be borne in mind. The applicant has advanced extensive oral argument placing reliance upon the ratio laid down in the above referred authorities and submitted that since the applicant is a professional chartered accountant hence, in due course of his professional obligation and participation in maintaining the business transaction of M/s Surya Hybrid (India) Pvt. Ltd. The learned Advocate for the applicant has drawn the attention of this Court to the documents vide Exh.3 and Exh.7 in the light of the provisions contained in Section 67, 69 73, 74 74(A), 78 and 79, 107, 112, 117, 118, 122, 132 and 138 and submitted that the prosecution has tried to implicate the applicant mere on the basis of so called confessional statement which is not free from course and threat and of dire legal consequences which has already been retracted by the applicant and legally the same cannot be considered to fix the legal liability of the applicant in absence of any independent and corroborative peace of evidence. It was also argued that the applicant has no antecedent and as a long driven spotless carrier as working of Chartered Accountancy.

7] Per contra, the prosecution has relied upon the confessional statement of the present application recorded on 11.03.2026 and submitted that the Hon’ble Court can rely upon the confessional statement recorded under Section 136 of GST Act. According to prosecution during the investigation it was found that the applicant was admittedly participated in the evasion of taxes so as to cause huge economic revenue loss to the state beyond the scope of its power as a chartered accountant appointed by the M/s Surya Hybrid (India). It was further submitted that the applicant has destroyed the valuable evidence, including the hard disk of the dell laptop which contained soft copies of purchase bills, sale bills, accounting records, and other incriminating data of M/s. Surya Hybrid (India) Pvt. Ltd. as it reflects from the confessional statement of the applicant.

8] The learned Advocate on behalf of the applicant heavily relied upon the decision in case of P. Krishna Mohan Reddy (supra) asserting that a confessional statement made under section 23(1) of the BNS, 2023 before the police is inadmissible. It was further submitted that in absence of any independent witness the confessional statement cannot be considered and relying on the same this Court cannot refuse the plea of the anticipatory bail. It was argued the confessional statement of the applicant has been recorded by the concerned authority keeping the applicant in pressure and threat and it is not free from the pressurize tactics and therefore, it is the weakest peace of evidence an cannot become the evidence to deny the anticipatory bail. It was further argued that as a part of his duty the applicant was obliged to maintain the accounting details relating to M/s Surya Hybrid (India).

6.2] Considering the rival submissions in the light of admitted fact that still the applicant has not been booked under any offence under any Act by filing or registering any complaint or FIR. It appears that the confessional statement of applicant was recorded on 11.03.2026 in which the applicant has stated that “he removed the inbuilt hard disk of his Dell laptop which contained soft copies of purchase bills, sale bills, accounting record and other incriminating data of M/s Surya Hybrid (India) Pvt. Ltd. and physically destroyed the same by burning it and thereafter throwing in on the Rajkot-Ahmedabad Highway before Chotila”. The question whether in the given set of circumstances such statement can be relied upon at this juncture so as to accept the version of the applicant that it is not a reliable peace of evidence under 136 of the Act. This Court finds that the same can be considered while dealing with this application to decide the controversy unless strong clouds of suspicion are there against the same. In this case the e-mail alongwith the copy of the applicant dated 29.03.2026 placed vide Mark 7/1 showing that the applicant has tried to retract from the statement on the various grounds and the circumstances set out in the affidavit vide Mark 7/2. However, this Court finds that the very email annexed with the copy of the affidavit dated 29.03.2026 was forwarded to the authority under the act only after placing this anticipatory bail application. This court cannot loose the sight of the fact that the alleged statement of the applicant was recorded on 11.03.2026 and the present application is filed on 17.03.2026 and the applicant is not in position to counter the version of the prosecution that the investigation is still undergoing on very crucial and significant part of the investigation in which still no clear picture could have been arrived at by the investigation agency just because the available peace of evidence has been destroyed by the applicant. This Court finds that the applicant at this juncture is not able to convince this Court to the fact that his role was admittedly as an appointed auditor in which he had to deal the affairs of the company to which he was appointed as the statutory auditor. However, papers relating to investigation till date clearly reveal that the applicant has prima facie played the crucial role in causing the huge revenue loss to the State which was never the duty and business affairs of the applicant. It was argued by the learned Advocate for the applicant that this is the case of the economic revenue loss and can be recovered by filing separate proceedings against the applicant and maximum punishment provided for alleged offence is up to five years and the offence under the Act are compoundable. However, this Court is not convinced with this submission in considered fact that as the applicant being appointed auditor had to participate only with the affairs which were permissible as part of his duty and function but the investigation papers as reflects in the records prima facie reveals that the applicant has done something which was in violation of the law, and therefore, the same cannot become a ground to enlarge the applicant on bail when the investigation is under way and it has not reached to any logical end at this juncture.

9] At this juncture allowing the applicant to remain on anticipatory bail would definitely adversely affect the investigation inasmuch as the claimant is a chartered account who was closely associated with the affairs of the M/s Surya Hybrid (India) and the investigation against the said Company is also in progress and therefore, apprehension cannot be ruled out that he may take disadvantage of this opportunity if he is enlarged on anticipatory bail as still the effective interrogation pertains to present involved in the present question is yet to be dealt with. Further, learned Advocate for the applicant tried to convince this Court that the maximum punishment provided for alleged offences up to five years and being compoundable in nature. However, this is a restricted argument in as much the prosecution has heavily argued that still investigation still underway and possibility cannot be ruled out that the commission of offences under other than the GST act may be disclosed. Looking to the status of primary investigation. The applicant is not in position to clarify on this point of argument. This Court believes that enlarging the applicant on anticipatory bail at this juncture when effective interrogation is yet to be conducted would definitely adversely affect the investigation from reaching in true direction.

10] Having heard the Learned Advocates appearing for the respective parties, the affidavit of Investigating Officer so also the investigation papers and considering materials placed by the respective parties where from it reflects as alleged by the prosecution that, present applicant is alleged to have involved and indulged in fraudulent availment of input tax credit. The investigation is still going on, hence, considering the role alleged to have attributed by the present applicant as well as aforesaid facts and the fact that offence is relating to economy of country and seems to be serious offence involving huge amount, thorough investigation is required which cannot be carried out without custodial interrogation of applicant. Therefore, there seems to be no substance in the present application so as to exercise the discretionary power in favor of the applicant to enlarge him on regular bail Hence, I pass the following order

O R D E R

Criminal Misc. Application (for Anticipatory Bail) No.807/2026 titled as **Kapil Narendra Dasani** Vs State of Gujarat stands **rejected.**

Pronounced in open Court today on this **2nd day of April, 2026**

[IKRAMKHAN BASIRKHAN PATHAN]
4th Addl. District & Sessions Judge, Rajkot.
[UIC – GJ000614]

Date :02/04/2026
Place : RAJKOT

//V.V.Pandey//