



**IN THE COURT OF 8TH ADDITIONAL SESSIONS JUDGE,
SURAT**

Cr.M.A.S. No. 1433 of 2026

Exh:- _____

Applicants/accused:-

Mukeshbhai Shambhubhai Mangukiya

Age : 45 Years, Occupation: Business,

Residing at : G-102, Om Township,

Pasodara, Surat.

Versus

Opponent :-

The State of Gujarat

Appearances :-

Ld. Advocate Mr. R. B. Lathiya for the Applicants.

Ld. APP Mr. S. K. Gohil for the Opponent-State.

~::~ J U D G M E N T ::~

1. This is an application filed by the accused-applicant under Section-482 of BNSS, 2023 for seeking pre-arrest bail in connection with the offences registered at **Hazira** Police Station vide Crime Register No. 11210001260031 of 2026 under Sections 303(2), 316(3), 317(4), 287, 288, 61(2), 54, and 3(5) B.N.S., 2023.
2. The notice was issued to the respondent State of Gujarat.

The Ld. Public Prosecutor has appeared before the court. The investigating officer has submitted his affidavit against the present bail application vide Exh. 5.

Submission on behalf of Applicant-accused.

3. Heard the Ld. Advocate for the accused-applicant. He contended that there is no prima facie evidence against accused to book him in this case. He further contended that the accused has been falsely implicated in this case and he is totally innocent. He further contended that the presence of accused would be easily available at the time of trial. He further contended that the accused-applicant is ready to comply any conditions that may be imposed by your Honour court. Hence, prayed for allowing the application.

Submission on behalf of State.

4. Heard the Ld. APP. He submitted that there is prima facie case made out against the accused and the offence is serious therefore the application should be rejected.

Position of law governing Anticipatory Bail.

5. The Hon'ble Supreme Court in "Dhanraj Aswani vs. Amar S. Mulchandani" reported in (2024) 10 SCC 336 has held as under;

39. What has been conveyed in the aforesaid decision is that the court, on its own, should not try to read any other restriction as regards the exercise of its power to consider the plea for grant of anticipatory bail. Wherever Parliament intends or desires to exclude or restrict the power of courts, it does so in categorical terms. This is very much evident from the plain reading of subsection (4) of Section 438 CrPC itself. The dictum as laid is that the court should not read any blanket restriction nor should it

insist for some inflexible guidelines as that would amount to judicial legislation.

6. The Hon'ble Supreme Court in "P. Chidambaram v. Directorate of Enforcement" reported in (2019) 9 SCC 24 has held as under:

Grant of anticipatory bail in exceptional cases

69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 CrPC is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.

72. We are conscious of the fact that the legislative intent behind the introduction of Section 438 CrPC is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights—safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal

to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

83. Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail.

- 7.** The Hon'ble Supreme Court in "XXX vs Arun Kumar C. K" reported in AIR 2022 SC 5705 has held in Para-15 as under:

In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the

nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

8. The Hon'ble Supreme Court in the case of "P. Krishna Mohan Reddy Versus State Of Andhra Pradesh" reported in 2025 INSC 725 has held as under;

21. It was sought to be argued that the petitioners have already joined the investigation and are fully cooperating with the investigating agency and therefore, there is no need for custodial interrogation.

22. The petitioners might have been cooperating with the investigation and they might have been interrogated also by the investigating agency so far but, at the same time, we should not overlook the fact that by grant of anticipatory bail, we may come in the way of the investigating agency if at all it wants custodial interrogation.

23. As held by this Court in Sumitha Pradeep v. Arun Kumar C.K. & Anr. reported in (2022) 17 SCC 391 that it would be preposterous as a proposition of law to say that if custodial interrogation is not required that by itself is sufficient to grant anticipatory bail. Even in cases where custodial interrogation may not be required the court is obliged to consider the entire case put up by the State, more particularly, the nature of the offence, the punishment provided in law for such offence etc.

24. It is needless to say that for the purpose of custodial interrogation, the investigating agency has to make out a prima facie case at the time when remand is prayed for. Whether any case for police remand is made out or not, it is for the Court concerned to look into.

25. In such circumstances, referred to above, we are of the view

that we should not come in the way of the investigating agency at this point of time and the investigation should be permitted to proceed further.

27. To some extent, the petitioners could be said to have made out a prima facie case of political bias or mala fides but that by itself is not sufficient to grant anticipatory bail overlooking the other prima facie materials on record. Political vendetta or bias if any is one of the relevant considerations while considering the plea of anticipatory bail. The courts should keep one thing in mind, more particularly, while considering the plea of anticipatory bail that when two groups of rival political parties are at war which may ultimately lead to litigations, more particularly, criminal prosecutions there is bound to be some element of political bias or vendetta involved in the same. However, political vendetta by itself is not sufficient for the grant of anticipatory bail. The courts should not just look into the aspect of political vendetta and ignore the other materials on record constituting a prima facie case as alleged by the State. It is only when the court is convinced more than prima facie that the allegations are frivolous and baseless, that the court may bring into the element of political vendetta into consideration for the purpose of considering the plea of anticipatory bail. The frivolity in the entire case that the court may look into should be attributed to political bias or vendetta.

54. Besides the above, we would also like to make ourselves very clear that the investigating agency shall not adopt any third-degree methods or shall not coerce or exert any undue pressure or bring any undue influence on any of the witnesses or any of the co-accused to make statements that may suit the State. Tomorrow, if any complaint is made before the court in this context with some cogent material, be it the trial Court or the High Court or the Supreme Court, the same shall be viewed

very seriously. It is expected of the investigating agency to carry out a fair, impartial and transparent investigation, more particularly, in accordance with law.

55. Before we close this matter, we make it further clear that if the petitioners are ultimately arrested, remanded and thereafter sent to judicial custody and if any regular bail application is filed, the same shall be considered on its own merits in accordance with law. It is needless to say that the principles of grant of anticipatory bail substantially differ from the principles of grant of regular bail. It is for the Court concerned to apply the correct principles of law so far as the grant of regular bail is concerned and decide the same accordingly.

Analysis.

9. Looking to the FIR it appears that it is alleged in the FIR that the accused have in abetment and in pursuance to the criminal conspiracy stolen the chemical from the tankers by taking property on rent and disposed of chemical without taking due care of inflammation and thereby committed alleged offence. It is stated in the affidavit of IO that the presence of applicant-accused has at the place of commission of alleged offence which has been traced through his mobile call history and he has been found contacting the other accused of this offence. The argument of the Ld. Advocate for the applicant-accused that he has been falsely implicated cannot be accepted at this stage. The fact that Hon'ble High Court has enlarged accused Nitinbhai on regular bail is by itself is not sufficient to enlarge present applicant accused on pre-arrest bail as accused has no prima facie connection found by Hon'ble

High Court in case of Nitinbhai.

10. Under such circumstances, the discretionary power under Section- 482 of the BNSS, 2023 may not be exercised in favour of the accused. In view of the aforesaid reasons and discussion, this court declines to grant this application so I hereby pass following order in the interest of justice.

:- Order :-

The application for bail filed by the present applicant-accused is hereby order to be rejected.

Date:18/03/2026

Place: Surat

(Amitkumar Narendrabhai Dave)

8th Additional Sessions Judge

Surat. GJ00807