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**IN THE COURT OF THE HON'BLE 6th
ADDITIONAL SESSIONS JUDGE, SURAT.**

**CRI. MISC. APPLICATION No. 1673 of 2026
Exh.**

Sr. No.	Name of The Applicant	Age	Occupation
	Mukeshbhai Chhaganbhai Ukani Resident of; A/99, Sagana Society, Vibhag - 1, Shyamdham chowk, Nana Varachha, Surat.	49 years	Business
V/s			
Sr. No.	Name of The Opponent	Age	Occupation
	The State of Gujarat Through District Government Pleader, Surat.	-	-

Sub :- Application under the provisions of section 482 of The
Bharatiya Nagarik Suraksha Sahinta, 1973.

Appearance :-

Ld. advocate for the applicant :- Mr. P. D. Mangukiya.

Ld. A.P.P. for the opponent :- Mr. V. L. Faldu.

:- Judgment :-

1. The present bail application has been preferred by the applicant to grant anticipatory bail under the provisions of section 482 of The Bharatiya Nagarik Suraksha Sanhita, 2023 (herein after referred as "The BNSS" for short)

apprehending his arrest, in connection with the offense registered with Sarthana Police Station vide A - C. R. No. 1121000820097/2026 for the alleged commission of offense punishable under the provision of section 318 (4) of The Bhartiya Nyaya Sanhita, 2023 (herein after referred to as "The BNS" in short).

2. The learned advocate for the applicant has submitted that, the applicant has not committed any offense but he is falsely involved in this case. The story of the complainant is got up and the applicant has not played any part in the commission of the said offense. It is also submitted that, there is no any prima facie case against the applicant/accused. It is also submitted that, the applicant is not directly involved in the said offense. It is also submitted that there is no financial benefit to the applicant and hence, there is no prima facie case against the applicant - accused. The complaint is lodged with an ulterior motive to falsely implicate applicant. No custodial interrogation or custody of the applicant is necessary for recovery or discovery. Further there is no past criminal antecedents of the present applicant - accused. The applicant - accused is residing at Surat with his family and responsibility to maintain his family and he will be readily available for the trial and also for investigation purpose, and hence, there is sufficient reason to use the discretion, and it is prayed to allow this anticipatory bail application.
3. The learned APP has also made his oral submission by reiterating the contentions raised by the investigating officer in his affidavit vide exh. 4. He has further submitted that, the applicant accused had showed that the Norvela

Company operating in abroad and in Surat and told that the Norvela Company is an Ayurvedic Medicine and this company has made good profits and so the complainant has invested Rs. 65,00,000/- in the said company and out of which the applicant had returned amount of Rs. 7,00,000/- and did not returned the remaining amount and on demanding the same. The applicant-accused has given Promissory note of Rs. 35,00,000/- and also given three blank cheques of bank. However, the applicant-accused did not returned the remaining amount of Rs. 58,00,000/- to the complainant and thereafter, failed to pay the same and thereby, committed offense of cheating with the complainant. Further submitted that there is one past criminal antecedent against the present applicant-accused. If the applicant is given protection of anticipatory bail, he will not cooperate with the investigation, which will have adverse effect on fair investigation and also there will be chances of hampering with the witnesses and tempering with the evidence. He has further submitted that, considering the nature of allegations leveled against the applicant as well as role alleged to be played by the applicant, the present anticipatory bail application of applicant may be disallowed.

4. The de-facto complainant has appeared before this Court and submitted her affidavit vide Exh. 06, inter alia praying to rejection of the present bail application.
5. Thus, considering the contentions raised by the applicant in the application under consideration as well as affidavit submitted by the Investigation Officer vide exh. 4 and

contentions of the FIR and submissions advanced by the Id. advocates for the parties, respectively and contentions of the FIR registered against the applicant accused for alleged offense, it appears that, the allegations against the present applicants/accused are under section 318 (4) of The BNS, wherein, maximum punishment provided is upto 7 years. Thus, without entering into the merits of the case, it would be profitable to rely and refer the principle laid by Hon'ble The Supreme Court in the matter between Arnesh Kumar V/s State of Bihar, reported in 2014 (8) SCC at page no. 273, wherein, Hon'ble The Supreme Court has discussed the statutory provisions incorporated in Section 41 and 41A of The Code and passed certain directions, which are as under.

1. All police officers be provided with a check list containing specified sub clauses under Section 41(1)(b)(ii);
2. The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
3. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in term aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
4. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
5. Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
6. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.
7. Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.
8. We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498 - A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be

less than seven years or which may extend to seven years; whether with or without fine.

Thus, as per the above directions given by Hon'ble The Supreme Court and the provisions laid down in Section 41 and 41A of The Code, the applicant is being protected from illegal and wrongful arrest. The full mechanism has been set up in the said express and unambiguous provisions and same having been fortified by the directions quoted hereinabove, compels the police authority from not making any arrest in the cases of present nature mechanically unless it is absolutely necessary on accounts of existence of parameters which are objectively there to do so. Similar provisions has been incorporated in The BNSS. These provisions and directions are as good as the anticipatory bail avoiding the fear of illegal or wrong arrest. Since, these protections are in operation, at this stage, the prayer which is sought for does not seem to be proper to be granted. Further, if police authority has sufficient reasons to arrest the applicant, and applicant apprehend his arrest then he may file fresh application showing the concrete reasons for such relief.

Further, as per the affidavit of I. O. that, there is nothing whether the applicant was served with the notice or not. Further, in case of non-compliance of notice, procedure is provided under The BNSS and the I. O. must have to follow the procedure provided under those sections of The BNSS. Hence, in view of the above discussions, this court is of the view that, no exceptional circumstances are shown by

the applicant for grant of the application and thus, in the interest of justice, following order is passed.

ORDER

The application filed by the applicants under the provisions of section 482 of The BNSS is hereby disallowed and rejected.

Order is passed and Pronounced in the Open Court on this 16th Day of March, 2026.

Date :- 16/03/2026

Place :- Surat

Hiteshkumar Mukundray Vyas
6th Addl. District & Sessions Judge, Surat.
Judge Code No. GJ00834

PHS