

GJAH010070922026 	 सत्यमेव जयते	Date of institution	04.08.2026
		Date of registration	04.08.2026
		Date of decision	12.08.2026

**IN THE COURT OF 9TH ADDITIONAL SESSIONS JUDGE,
AHMEDABAD (RURAL) AT NAVRANGPURA**

CRIMINAL MISC. APPLICATION NO. 2326 OF 2026

Applicant(s):

Name	Dhaval Jagdishbhai Parmar
Age	37 years,
Occupation	Service/Business,
Address	H2/1704, The Meadows, Adani Shantigram, S. G. Highway, Ahmedabad.

V/s.

Respondent:

State of Gujarat

Appearance (Learned Advocates):

For Applicant	Mr. G. G. Trivedi.
For Respondent	Ld. PP Mr. P. M. Trivedi.

∴ ORDER ∴

1. The present bail application has been filed on behalf of applicant-accused seeking anticipatory bail under Section 482 of The Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with FIR bearing **C.R.No.11191045260502/2026** with **Sola High Court Police Station** for the offence punishable under Sections **318(4)** of **BNS**.
2. In nutshell the case of the prosecution is that the complainant approached the present applicant-accused for getting work Visa permit of London (UK) for his son. However, the present applicant-accused obtained a sum of Rs.10,49,575/-

from the complainant, but, did not make any arrangement for securing work Visa Permit for the son of the complainant and he did not also return the money to the complainant. Accordingly, an FIR was lodged against the present applicant and apprehending his arrest, the present anticipatory bail application has been preferred.

3. Ld. Advocate for the applicant-accused has submitted that present applicant-accused is innocent and he has been falsely implicated in the alleged offence. It has been further submitted that the offence was alleged to have been taken place between 13.04.2024 to 28.03.2025 and the FIR was lodged on 28.07.2026 i.e. after delay of 16 months, which creates doubt about the occurrence. It has been further submitted that at the instructions of the complainant, the present applicant-accused acquainted the complainant with his agent Tusharbhai and as the complainant was not having facility to transfer the amount directly in the bank account of the agent, the present applicant-accused received money in his bank account from the complainant and, thereafter, transferred the same into the bank account of the agent. It has been further submitted that upon part payment by the complainant, the agent sent Sponsorship Letter to the complainant, but, as the complainant has failed in payment of remaining amount, the agent did not carry out further Visa Procedure. It has been further submitted that there was no ill-motive or intention on the part of the applicant-accused to cheat the complainant. It has been further submitted that alleged offences are triable by the Court of Ld. Magistrate and maximum punishment prescribed for the alleged offence

is of seven years. It has been further submitted that the present applicant-accused is residing at the address mentioned in the caption of the present application with his family and he is not having past criminal antecedents. It has been further submitted that the present applicant-accused is having good reputation in the society and he is also shouldering responsibility to maintain his family. It has been further submitted that the present applicant-accused will abide by all the conditions imposed upon him. With these submissions, it has been prayed to allow the present application.

4. Ld. PP for the State has vehemently opposed the present bail application on account of gravity and seriousness of the offence and also filed an affidavit of the IO vide Exhibit:7. It has been submitted that on the pretext of securing work Visa Permit for the son of the complainant, the present applicant-accused obtained huge amount from the complainant, but, he has failed to get Work Visa Permit for the complainant's son and he has also failed in repayment of the amount received from the complainant. He has further submitted that investigation is still going on and if the present application is allowed, then, there is every possibility that he may hamper the investigation. Accordingly, he has submitted that the present bail application may be rejected.
5. Having heard the Ld. Advocates appearing for the parties and having gone through the material on record, the question that falls for my consideration is whether any case for grant of anticipatory bail is made out or not. Further, considering the Judgment of Hon'ble Supreme Court in the case of

"Siddharam Satlingappa Mhetre Vs. State of Maharashtra" reported in 2010 (0) AIJEL 49182, wherein the Hon'ble Apex Court has laid down certain factors and parameters to be taken into consideration while dealing with the anticipatory bail. Further, Hon'ble High Court of Gujarat in case of **"State of Gujarat Vs. Jigneshkumar Maheshbhai Patel"** reported in 2018 (0) AIJEL-HC-239084, has held that ;

"10. It is a settled position of law that neither anticipatory bail nor regular bail can be granted as a matter of rule. The anticipatory bail, being an extraordinary privilege, should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after proper application of mind to decide whether it is a fit case for grant of anticipatory bail."

6. On perusal of the FIR, police papers, affidavit filed by the Investigating Officer and submission of the advocates for the either parties and considering the facts and circumstances of the case and the nature of allegations made in the FIR, the present applicant-accused is alleged to have committed the offence of cheating with the complainant. Further, the offence for which the present applicant-accused has been booked is punishable for imprisonment for seven years and fine.
7. At this stage, it would be appropriate to refer the judgment of the Hon'ble Supreme Court in the case of **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.*

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.

8. Thus, the present applicant has been charged for the offence punishable under Section 318(4) of the BNS. Looking to the quantum of punishment provided for the offence punishable under Section 318(4) of BNS is imprisonment for seven years and fine. Thus, as per the above directions given by Hon'ble The Supreme Court in the case of ***Arnesh Kumar V/s State of Bihar (supra)*** and the provisions laid down in Sections 41 and 41A of The Code (Section 35 of the BNSS), 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 herein above, compels the police authority from not making any arrest in the cases of present nature mechanically unless it is absolutely necessary on account of existence of parameters which are objectively there to do so. 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.

9. Further, as per the provision of BNSS and the dictum given by the Hon'ble Supreme Court before arresting the present applicant, the IO is required to follow the provisions of the BNSS. Further, in case of non-compliance of notice, procedure is provided under The BNSS and the IO 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 present application and, thus, in the interest of justice, following order is passed.

:- ORDER :-

- (1) The present Criminal Misc. Application bearing No.2326 of 2026 stands **rejected**.
- (2) The Investigating Officer is hereby directed to scrupulously follow the mandate of Section 35 of the BNSS as well as the proposition of law settled by the Honble Supreme Court in the cases of **Arnesh Kumar v.**

State of Bihar reported in (2014) 8 SCC 273; **Satender Kumar Antil v. Central Bureau of Investigation & Anr.** reported in (2022)10 SCC 51 and **Md. Asfak Alam vs. State of Jharkhand** and **Another** reported in 2023 SCC OnLine SC 892.

Yadi be made to the concerned Investigating Officer/Incharge of Police Station.

Pronounced and signed in the open Court on this 12th day of August, 2026 at Ahmedabad.

Date : 12.08.2026
Place: Ahmedabad

[Hardik R. Shah]
09th Additional Sessions Judge,
Ahmedabad (Rural) at Navrangpura
(Judge Code No.GJ00851)

