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IN THE COURT OF 2nd ADDITIONAL SESSIONS JUDGE,
 VADODARA AT SAVLI.

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CRMA No.189/2022
 Exh.

APPLICANT:

1. SHYAMKUMAR HARISHBHAI KANDOI

Age: 32 years, Occupation: Service,

Residing At:- Savli, near Ranchodji Temple, Bhimnath Temple
 Area, Taluka Savli, District Vadodara.

V/s.

OPPONENT : The State of Gujarat

Appearance:

Ld. Advocate Mr. J. M. Seth for applicant.

Ld. A. P. P. Mr. C. G. Patel for opponent.

**Subject : Anticipatory Bail Application U/s. 438 of the Code of
 Criminal Procedure, 1973.**

:: O R D E R ::

- [1] The present application is preferred by the applicant under Section 438 of the Criminal Procedure Code.
- [2] Short facts giving rise to the present application is that one offence has been registered against the applicant-accused with the Savli Police Station being **CR.No. A- 11197047220443/2022** under Sections **406, 420, 465, 467, 468, 471, 114** of the Indian Penal Code. The police can arrest the applicant in the present offence, therefore, the present applicant has filed this anticipatory bail.
- [3] Upon the presentment of the application, notice is issued to the respondent State of Gujarat and Ld. APP Mr. C. G. Patel has appeared for The State of Gujarat. Ld. Advocate Mr. J. M. Seth is present for the applicant-accused. Heard Ld. Advocates appearing for the parties. Perused the record.
- [4] On behalf of the applicant-accused Ld. Advocate Mr. J. M. Seth has submitted that the present applicant is innocent and he has not played any crucial role in this offence. He has further submitted that the pedigree which was created by the Talati has not used in any purpose. There is no any bad intention to use that pedigree to encroach any right of the complainant. He has further submitted that the present offence is occurred on

30/03/2021 as per the affidavit of I.O. and the present complaint is lodged on 01/05/2022. He further submitted that looking to the FIR, there is no any explanation regarding the delay of the FIR. He submitted that there is no need of the applicants-accused for the investigation. The police can arrest the applicant in the present offence. So, he requested to enlarge the present applicant-accused on anticipatory bail.

- [5] On behalf of the State, Ld. A.P.P. Mr. C. G. Patel has vehemently submitted that looking to the facts and circumstances of this case, the present applicant-accused along with other co-accused has played crucial role in this offence by making forge pedigree in the name complainant's uncle Budhabhai Veribhai Parmar, who had died 30 years ago then they have made the forge death certificate of complainant's uncle with death date of 13/06/2012 and with bad intention used the above forge death certificate and pedigree and muted their names as heirs of the complainant's uncle in the pedigree to become agriculturist. Therefore, they have knowingly committed this offence. He has further submitted that looking to the gravity of the offence, maximum punishment prescribed for the Section 467 of IPC is life imprisonment. So, he has requested to reject the present bail application. He has further

submitted that if the present applicants-accused enlarged on anticipatory bail, then there might be chance to hamper-tamper with the evidence.

- [6] By perusing the FIR and Affidavit filed by the I.O. at Exh.5, it appears that complainant is having land bearing Account No.902, Block/Survey No.2845, Area 0-67-79 and Block/Survey No.2849, Area 0-38-45 and his uncle Budhabhai Veribhai Parmar has died 30 years ago without having any children. So, to become agriculturist, all the accused with the help of each other made the forge pedigree of complainant's uncle Budhabhai Veribhai Parmar and death certificate of his uncle as died on 13/06/2014. Further, knowing about this forge pedigree, Accused No.7 and 8 have signed the pedigree as witnesses and also Accused No.9 has helped in this offence. Further, all the accused used the above forge pedigree in the Government Record and muted their names as the heirs in the pedigree.
- [7] Having heard to both the parties. It is prima facie appeared from the F.I.R., affidavit of the I.O. and Investigation papers that this present offence occurred as per the record on 30/03/2021 and the offence is registered against the applicant-accused on 01/05/2022. It is required to note that prima facie

it is appeared at this stage that there is no any cogent explanation regarding the delay of the registration of the offence. Looking to the facts and circumstances of the case, it is appeared that the alleged offence is mainly based upon the documentary evidence and looking to the investigation papers, most of the necessary documents are seized by the I.O. It is further appeared that looking to the facts and circumstances of the case, the dispute between the parties is in quashi civil nature and revenue litigation. Further, it is also appeared that all the accused persons are family members. Further, it is appeared from the record that the present applicant-accused is local resident of the Vadodara District and there is no any antecedent of the present applicant-accused. Hence, looking to this fact, the presence of the present applicant-accused is available for the purpose of the investigation. It is further required to note that there is no any allegation by the prosecution against the present applicant-accused that he is not co-operative with the investigation. It is further required to note that there is no any allegation against the applicant-accused that after registration of the offence the applicant-accused has tried to, in any manner, hamper-tamper to the documentary evidence. Further, looking to the affidavit of the

I.O. it is appeared that there is no any antecedent of the present applicant-accused. So, looking to all of the above facts and circumstances and looking to the principle settled by the Hon'ble Supreme Court of India in the case of *Siddhram Satlingappa Mhetre Vs. State of Maharashtra and Ors., reported at [2011] 1 SCC 694*, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of *Shri Gurubaksh Singh Sibbia & Ors. Vs. State of Punjab, reported at (1980) 2 SCC 565*, this Court is inclined to grant anticipatory bail to the applicant-accused by exercising discretionary powers vested u/s. 438 of Cr.P.C. Hence, in the interest of justice following order is passed.

:: O R D E R ::

1. This Criminal Misc. Application (Anticipatory bail) **No.189 of 2022**, is hereby **allowed**.
2. The applicant-accused – **SHYAMKUMAR HARISHBHAI KANDOI** resident of the address shown in the cause title, in the event of his arrest, is hereby **released on anticipatory bail** on furnishing personal bond of **Rs.10,000/- (Rupees Ten Thousand Only)** with **one surety of like amount** in connection with **FIR being No. CR.No. A- 11197047220443/2022** registered with Savli Police Station for the offenses punishable under Sections 406, 420,

465, 467, 468, 471, 114 of the Indian Penal Code, subject to following conditions.

: C O N D I T I O N S :

- a. The applicant-accused shall mark his personal presence before the concerned Police Station on **30/05/2022** at 10.00 a.m. to 05.00 p.m. for the interrogation purpose, and thereafter **on First Monday of every month** between 10.00 a.m. to 5.00 p.m. **for the period of Six months.**
- b. The applicant-accused **shall make himself available for interrogation** by a police Officer as and when required.
- c. The applicant-accused **shall not tamper with the evidence**, nor pressurize the witnesses of the prosecution.
- d. The applicant-accused shall not involve him in similar type of another offence.
- e. The applicant-accused **shall furnish their address** to the I.O. and if they changes their residence, then he shall disclose his new residence before the Court within the 7 days.
- f. The applicant-accused **shall not leave the territory of the India** without the permission of the Trial Court.
- g. If the applicant-accused is holding the passport, he shall deposit the same before the Ld. Trial Court within 7 days from this order. If he do not have, in that case affidavit be made to that effect before the Court.
- h. It would be open to the Investigating Officer to file an application for police custody remand if he considers it proper and just and the Ld. Magistrate would decide it on merits and in accordance with law and as per the guidelines of the higher

court.

- i. If any of the condition is breached by applicant-accused, the bail & bond will be automatically stand canceled.
- j. Yadi be sent to concern Police Station and concern Court accordingly.

Pronounced in open court today on this **26th day of May, 2022.**

Date : 26-05-2022
Place: Vadodara at Savli.

(J. A. Thakkar)
2nd Addl. Sessions Judge,
Vadodara at Savli.
GJ 00631

D. R. Solanki, (P.S.)