



IN THE COURT OF 2ND ADDITIONAL SESSIONS JUDGE
Dahod

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Criminal Misc. Application No. 420 of 2024

Applicants :

- 1. Virabhai Fuljibhai Sangada**
Age: 72 years, Occupation: Agriculture
- 2. Jotabhai Fuljibhai Sangada**
Age: 57 years, Occupation: Agriculture
- 3. Narsinhbhai Fuljibhai Sangada**
Age: 64 years, Occupation: Agriculture
Above all Residing at Sangada Faliyu,
Village Kharoda, Tal. Dist. Dahod.

Vs.

Opponent : The State of Gujarat
Gandhinagar.

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Subject:– Application under Section 438 of Cr.P.C. for Anticipatory Bail.

APPEARANCE:

Ld. Advocate for the Applicant. : Mr. H. M. Dube
Ld. A.P.P. for the Opponent –State. : Mr. J. R. Lalpurwala
Ld. Advocate for the Complainant. : Mr. J. P. Dixit

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

1. Present application is filed by the applicants U/s.438 of the Criminal Procedure Code for releasing them on anticipatory bail.
2. One FIR bearing Part-"A" Crime Registration No. **11821008220571/2022** for the offences punishable U/s. **3, 4(3) of the Gujarat Land Grabbing Prohibition Act, 2020, registered with Dahod Rural Police Station.** It is stated in this application that the applicants have apprehension likely to be arrested in the said offence. The applicants have specified the grounds for their entitlement for anticipatory bail as per the bail application.
3. On presentation of this application notice was issued to the State and Ld. A.P.P. Mr. JR Lalpurwala appeared for the State and Investigating Officer has filed his affidavit and also submitted papers of the investigation.
4. Ld. Advocate Mr. HM Dube appeared on behalf of the applicants and he has submitted in his arguments that;
 - i. The applicants are innocent and they have been falsely implicated in this offence on the basis of false and vague allegations, the complainant has falsely filed this complaint.
 - ii. Ld. Advocate Mr. Dube has further submitted that the applicants were used to cultivate the disputed land since last 40 years and since then they were in possession of the said land, but, the complainant and his sons restrain the applicants to enter into the disputed land, therefore, they filed Regular Civil Suit No. **155/2009** before the Principal Senior Civil Judge, Dahod seeking injunction and the Senior Civil Court passed an order to grant the injunction, then after, the said suit was dismissed for default, thus, the

applicants have not encroached the disputed land. Lastly, Ld. Advocate Mr. Dube has submitted that the applicant has not encroached the disputed land, hence, no prima-facie case is made out under this Act.

iii. He has also submitted that the applicant is having permanent residence at village Kharoda, Tal. Dahod and they are having family responsibilities and will not flee away from the justice and they will abide by all the conditions, so, they may be enlarged on anticipatory bail on any suitable conditions.

5. Per Contra the Ld. A.P.P. Mr. JR Lalpurwala has strongly opposed and objected the present anticipatory bail application and further submitted that;

i. The present offence is registered under Section 3, 4(3) of the special enactment the Gujarat Land Grabbing Prohibition Act and from the complaint and papers of the investigation it is very much clear that on an application preferred by the complainant, the District Committee inquired in to the matter and evaluated the documents and thereafter ordered to register the present offence against the accused person, so, prima-facie case is made out against the accused person.

ii. Ld. A.P.P. Mr. Lalpurwala has further contended that the in the revenue record the disputed land runs in the name of the complainant, hence, the disputed land is under the ownership of the complainant. He has also submitted that the Ld. Senior Civil Court has ordered to maintain status-quo in the Civil Suit filed by the present applicant and no any injunction order is passed as submitted by Ld. Advocate for the applicant.

iii. He has further submitted that in case of granting anticipatory

bail to the applicants they will flee away and will not available for investigation as well as for trial, so, the present anticipatory bail application deserves to be rejected.

6. The complainant remained present through Ld. Advocate Mr. J.P. Dixit and filed his written objection vide Exh.4 and requested to reject this bail application.
7. I've heard Ld. Counsels and considered the contents of the present application. Perused the entire materials available on record.
8. As per the guiding principles enunciated by the Hon'ble Supreme Court, it is imperative for the Courts to evaluate the material available as well as the facts of the particular case with meticulous precision.
9. Now, the present application is required to be decided keeping in mind the settled principles in backdrop of the facts of the present matter. This Court is well aware of the fact that, at the time of deciding any application under the provision of Section 438, the appreciation and evaluation of the evidences is not permissible. But the materials produced by the contesting parties are required to be considered for fair adjudication of the application.
10. Having heard the arguments advanced by both the parties and also upon perusal of complaint and relevant case papers of investigation and affidavit of Investigating Officer, **it appears that the present offence is registered under the order and direction of the District Committee constituted by the State Government vide Notification for the offences under Section 3, 4(3) of the Gujarat Land Grabbing Prohibition Act, 2020 and after having inquired in**

to the matter and evaluated the record and documents, on application under this Act being received, the District Committee under the Chairmanship of the Collector has passed the said order for registration of present offence. It also appears from the complaint, case papers of the investigation that the disputed property for which the present complaint is lodged under this Act is of land having Account No. 148 bearing R.S.No.606 of village Kharoda, Tal. Dist. Dahod. At the first glance of the matter it also transpires that the name of the complainant is mentioned in the revenue record i.e. in the village form No. 7 & 12, village form No. 8 and village form No. 6. Moreover, **it also reflects from the measurement sheet produced by the D.I.L.R. that the applicants have made encroachment on the disputed land.** Therefore, it is sufficient for the Court to arrive at the conclusion that prima-facie case is made out against the applicant.

11. Therefore, it is sufficient for the Court to arrive at the conclusion that prima-facie case is made out against the applicants.
12. On judicious scrutiny of the materials placed by the respective parties for adjudication of this bail application, **it prima facie appears that the applicants are in illegal and unauthorized occupation and possession of the disputed land and they have illegally made encroachment on the said land.** The case papers also indicates that the D.I.L.R. Officer, Dahod made personal visit of the disputed land and also submitted his report to the District Committee and as per the report of the D.I.L.R. the applicants have made encroachment on land bearing R.S.No.606 of Account No. 148 of village Kharoda which belongs to the Complainant. Moreover, the applicant-accused have also not produced any revenue record to make his claim stronger. Therefore, the

contentions of the Ld. Advocate for the applicant do not find any force of law.

13. Having taken into consideration the various provisions of this Act including the meaning of term "land grabbing", from the clear and unambiguous language of these provisions, it clearly appears that the applicants have encroached the disputed land without any lawful title or entitlement. Therefore, the applicants are not entitled for bail.

14. So, looking to the nature and gravity of the allegations leveled against the present applicants–accused persons and as offence registered against the present applicant–accused is certainly against the interest of the society pertaining to the land grabbing and considering the peculiar facts and circumstances, this Court is of the considered view that the applicants are not entitled for anticipatory bail. Therefore, in view of above discussion, there are no justifiable reasons to exercise discretionary powers vested upon this Court under the provision of Section 438 of the Code of Criminal Procedure. Hence, in the greater interest of justice, following order is passed.

::: ORDER :::

The present Criminal Misc. (Anticipatory Bail) Application **No. 420 of 2024** of applicant is hereby *rejected*.

Pronounced and Signed today i.e. on 24th June 2024.

Date : 24/06/2024.
Place : Dahod

(D. J. Mehta)
2nd Additional Sessions Judge
Dahod.
[UIC No. GJ–00666]