

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY
BAIL) NO. 1084 of 2026**

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NIKULBHAI CHOTABHAI PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR RS SANJANWALA, SR ADVOCATE with MR.HARDIK
BHARHMBHAT(3741) for the Applicant(s) No. 1

MR MOHD. SHAHRUKH M SAIYAD (11014) for the
Respondent(s) No. 1

MR PRANAV DHAGAT, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 17/03/2026

ORAL ORDER

1. *Rule.* Learned Additional Public Prosecutor waives service of notice of rule for respondent – State of Gujarat.

2. By way of this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short, "BNSS"*), the applicant has prayed for anticipatory bail in the event of arrest in connection with the FIR being C.R. No. 11215002241015 of 2024, registered with Anand Town Police Station, District: Anand for the offences punishable under Sections 465, 467, 468, 471 and 201 of the Indian

Penal Code, 1860 (IPC).

3. Outlined facts of the prosecution case is that the brother of the *de facto* complainant namely Prakashbhai Mohanbhai Patel, now deceased, and present applicant namely Nikulbhai Chotabhai Patel in connivance with each other, created a forged Power of Attorney of the *de facto* complainant and her sister namely Pratibhaben and Tarulatabenm when the *de facto* complainant was staying in London, U.K. in the year 2000 and thereby, sold the land belonging to the *de facto* complainant to one Arvindbhai Bhikhabhai Patel. It is further the case of the *de facto* complainant that despite she asked for the said Power of Attorney, the same is not made available to her and thereby, caused the same to be disappeared. On the said facts, the *de facto* complainant lodged the aforesaid FIR.

4. Heard, Mr. R. S. Sanjanwala, learned senior advocate, assisted by Mr. Hardik Brahmabhatt for the applicant, learned advocate Mr. A. H. Kadri for learned advocate Mr. Mohd. Shahrukh M. Saiyad appearing for the *de facto* complainant as well as learned Additional Public Prosecutor for the respondent – State.

4.1 The learned senior advocate for the applicant would submit that the transaction in question was allegedly taken place in the year 2000 for which, the FIR, which is impugned herein, is registered only in the year 2024. Thus, there is extra ordinary

delay in lodging the FIR.

4.2 The learned senior advocate for the applicant would submit that the nature of dispute is manifestly civil in nature to which, a criminal colour has been given, inasmuch as, the dispute is with regard to the property.

4.3 It is submitted that in alleged crime, the real brother of the *de facto* complainant is arraigned as main accused being accused No. 1 namely Prakashbhai Mohanbhai Patel, who, as per the allegations, created the forged power of attorney of the *de facto* complainant and sold the land owned by the *de facto* complainant using said power of attorney. He submitted that the brother of the *de facto* complainant - Prakashbhai Mohanbhai Patel, the original accused No. 1 is no more. Further, the so-called forged Power of Attorney is not produced so as to verify the claim of the *de facto* complainant and in the circumstances, the role attributed to the present applicant is presumptive only. It is submitted that in a suit filed for the cause, it is averred by the *de facto* complainant that all this has been done at the instance of her brother namely Prakashbhai Mohanbhai Patel, the original accused No. 1 only.

4.4 The learned senior advocate for the applicant would further submit that even other the case is based on the documentary evidence and the nature of allegations are such that custodial interrogation at this stage is not necessary. It is further submitted

that the applicant will keep himself available during the course of investigation and trial also and will not flee from justice.

4.5 The learned advocate for the applicant further states that the applicant shall abide by all the conditions that may be imposed while granting anticipatory bail to the applicant. Accordingly, it is urged that this application may be allowed and to grant the anticipatory bail to the applicant.

4.6 However, the learned senior advocate for the applicant has fairly submitted that the quashing petition filed by the present applicant is rejected by the coordinate Bench, however, he submits that the same may not be a ground for non-considering the present application.

5. *Ex adverso*, the learned advocate for the *de facto* complainant while vehemently opposing this application for anticipatory bail, submitted that it may be a dispute relating to property, but there is a touch of criminality in it, inasmuch as, the present applicant, in connivance with the main accused, who is the real brother of the *de facto* complainant, has forged the power of attorney and sold the land belonging to the *de facto* complainant to the third party.

5.1 It is submitted that the present applicant is also charged under Section 201 of the IPC inasmuch as the so-called forged power of attorney used in selling the land of the *de facto*

complainant is not produced and made to disappear with a view to hide the crime.

5.2 The learned advocate for the *de facto* complainant would further submit that it may be a transaction of 2000 but the Court may not disregard the fact that the quashing petition filed by the present applicant came to be rejected very recently by an order dated 15.12.2025 passed by the coordinate Bench in Special Criminal Application No. 13517 of 2024. Drawing attention of the Court to the order passed therein, it is submitted that he submitted that the Court has in no uncertain terms has observed in the said order that, *'Therefore, the argument sought to be canvassed on behalf of the petitioner that the dispute involved in the present case is purely of a civil nature, does not appear to be true as the aspect of criminality of forging the document is conspicuously present'*.

5.3 It is further submitted that the *de facto* complainant had sent the objection from UK to the entries in the revenue record, however, the said objection came to be withdrawn by way of forged authority.

5.4 Thus, making above submissions, he urged that this application may not be entertained and it is requested to be rejected.

6. Learned Additional Public Prosecutor appearing on behalf of

the respondent – State has adopted the arguments of the learned advocate for the *de facto* complainant and further submitted that looking to the nature and gravity of the offence and requested not to entertain this application.

7. Having heard the learned advocates appearing for the parties and perusing the papers available on record, it is incumbent upon the Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in plethora of decisions of the Apex Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are (i) the nature and gravity of the accusation; (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence; (iii) the possibility of the applicant to flee from justice; and (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested. Though at the stage of granting bail an elaborate examination of evidence and detailed reasons touching the merits of the case, which may prejudice the case of accused, should be avoided. However, following aspects have been taken into consideration:

- a) instant case, *prima facie*, appears to be rested on documentary evidence;

- b) main accused *i.e.* accused No. 1 – Prakashbhai Mohanbhai Patel is no more;
- c) the so-called forged Power of Attorney is not on record / traceable;
- d) *prima facie*, there appears nothing to show that by the said transaction, the present applicant has gained anything by such forgery;
- e) a petition was filed by the *de facto* complainant before this Court seeking direction to register a complaint and investigate the offence, however, the same came to be rejected by the coordinate Bench *vide* order dated 13.01.2012 passed in Criminal Misc. Application No. 16787 of 2011. However, thereafter, the FIR in question came to be lodged in the year 2024 only;
- f) in the aforesaid petition seeking direction to register complaint, it is the case of the *de facto* complainant herself, as observed by the coordinate Bench that, “*it is her brother only, who, by entering into transaction with another respondent namely the purchaser of the land in question, on the basis of the bogus power of attorney, sold her land*”. It is further the case of the *de facto* complainant in the said petition that, “*her brother, by exerting pressure by the purchaser of the land in question, had signed the power of attorney and he confessed to that extent*”;
- g) Hitesh Ambalal Patel, who happens to be the near relative of the *de facto* complainant, has been granted anticipatory bail by the coordinate Bench *vide* order dated 26.11.2025 passed in Criminal Misc. Application No. 15504 of 2025 in connection with complaint being A. P. No. 408 of 2025;
- h) in the decision in case of *Ashok Kumar v. State of Union Terrotory Chandigarh, rendered by the Apex Court in Special Leave Petition (Crl.) No. 9949 of 2023 dated 01.03.2024*, in para 12, it is observed by the Apex Court that,

“There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation”. In the case on hand, nothing such a sort, more particularly, more than prima facie cause, is shown so as to suggest as to why custodial interrogation is required;

(emphasis added)

i) the learned advocate for the applicant has assured that the applicant will not flee from justice and would be available during investigation as well as the trial.

8. Considering the aforesaid aspects and the law laid down by the Hon'ble Apex Court in the case of *Siddharam Satlingappa Mhetre v. State of Maharashtra and Others*, reported in (2011) 1 SCC 6941, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of *Shri Gurubaksh Singh Sibbia & Others*, reported in (1980) 2 SCC 665 and also the decision in the case of *Sushila Aggarwal v. State (NCT of Delhi)*, reported in (2020) 5 SCC 1, the Court is inclined to allow the present application.

9. In the result, this application is allowed by directing that in the event of arrest/ appearance of the applicant in connection with the above-referred FIR, the applicant shall be released on bail on

furnishing a personal bond of **Rs.10,000/- (Rupees Ten Thousand)** with one surety of like amount on the following conditions that applicant:

- (a) shall cooperate with the investigation and make available for interrogation whenever required;
- (b) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- (c) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- (d) shall remain present at the concerned Police Station on **23.03.2026** between 11.00 a.m. and 2.00 p.m.;
- (e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change residence till the final disposal of the case till further orders;
- (f) shall not leave India without the permission of the Court and if having passport shall deposit the same before the trial Court within a week;
- (g) It is open to the police or the investigating agency to move the learned trial Court for a direction under Section 483(2) of the BNSS to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc.

9.1 At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while considering the bail application.

10. It is made clear that this order of anticipatory bail does not in any manner limit or restrict the rights or duties of the police or investigative agency to investigate into the charges against the applicant who is granted pre-arrest bail.

11. Rule is made absolute to the aforesaid extent. **Direct service** is permitted.

[P. M. Raval, J.]

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