

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC. APPLICATION (FOR ANTICIPATORY
BAIL) NO. 3980 of 2026**

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BHARTIBEN VIKRAMSINH RATHOD

Versus

STATE OF GUJARAT

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Appearance:

BHARATKUMAR A DESAI(8513) for the Applicant(s) No. 1

MR DIPESH D SONI(9996) for the Respondent(s) No. 1

MR BHARGAV PANDYA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 06/05/2026

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. 11197003251124 of 2025, registered with Vadu Police Station, District: Vadodara (Rural) for the offences punishable under Sections 108, 115(2) and 54 of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. Outlined facts of the prosecution case are that on 30.12.2025, the daughter of the *de facto* complainant committed suicide by consuming Acid as her husband and the mother-in-law were not allowing her to meet their children and thereby, causing severe mental and physical harassment and as she could not bear the same, she committed suicide, for which, the FIR in question came to be registered.

4. Heard, the learned advocates for the respective parties.

4.1 The learned advocate for the applicant would submit that the applicant is an innocent widowed lady, who is falsely implicated in the crime in question. He submitted that the ingredients of the offence alleged against the applicant are not fulfilled inasmuch as there is nothing on record to show that cruelty was meted out to the deceased by the applicant. He submitted that even for the sake of argument, some cruel treatment was given by the applicant, then too, it does not constitute the offence alleged against her as there was no element of constant cruelty to the deceased by the applicant.

4.2 The learned advocate for the applicant would submit that the applicant is the only person who is taking care of her children as her son is also behind the bars. Further, so far as statements of witnesses are concerned, they appear to be the hearsay evidence and without there being any corroboration, cannot be relied.

4.3 The learned advocate for the applicant submits that the nature of allegations are such that custodial interrogation at this stage is not necessary. It is further submitted that the applicant will keep herself available during the course of investigation and trial also and will not flee from justice.

4.4 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.

5. As against this, the learned Additional Public Prosecutor appearing on behalf of the respondent – State has opposed grant of anticipatory bail looking to the nature and gravity of the offence and requested not to entertain this application.

6. The learned advocate for the *de facto* complainant while adopting the submissions of the learned Additional Public Prosecutor, would submit that there was constant harassment and cruelty meted out by the applicant to the deceased which led her to commit suicide. He submitted that even harassment was continued since prior to the incident in question and in the circumstances, this being anticipatory bail application, it is requested to be not entertained.

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) the applicant is a widowed lady, aged about 56 years;
- b) ingredients of offence in question appear to be not fulfilled inasmuch as there *prima facie* nothing on record to show that there was consistent cruelty meted out to her by the applicant;
- c) a perusal of the First Information Report (FIR) alongside the recorded Dying Declaration of the deceased. While the FIR, lodged by the deceased's kin, specifically names the applicant (Mother-in-law) and attributes general

allegations of physical assault on the day when the deceased went to in-laws house for serving Court summons, the subsequent Dying Declaration, recorded by a Magistrate is conspicuously silent regarding any role played by the applicant and on the contrary states that after meeting her children she came back to her maternal house;

d) in the present case, the deceased had the opportunity to name the perpetrators of the alleged cruelty but chose not to implicate the applicant rather implicated the husband having illicit relationship. This omission creates a significant dent in the prosecution's version as narrated in the FIR and raises a *prima facie* doubt regarding the applicant's involvement in the alleged offense;

e) this Court cannot ignore the growing tendency to implicate all elderly family members in matrimonial disputes through 'omnibus' (generalized) allegations. Given that the deceased herself did not attribute any overt act to the applicant in her D.D., the custodial interrogation of the applicant, an elderly lady does not appear to be warranted for the purpose of further investigation;

f) the Court would be loath in granting anticipatory bail in a case of suicide out of matrimonial dispute however, the discrepancy between the FIR and the Dying Declaration suggests that the possibility of 'afterthought' or 'tutoring' in the FIR cannot be ruled out at this stage. To protect the personal liberty of the applicant against potentially unfounded incarceration, this Court is inclined to grant the benefit of anticipatory bail;

g) 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 as and when called for;
- (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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