

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE ANTICIPATORY
BAIL) NO. 6623 of 2026**

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OM PRAKASH SHYAMDAS CHOYTHANI
Versus
STATE OF GUJARAT

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Appearance:

MS. KETKI P JHA(9864) for the Applicant(s) No. 1
MS VRUNDA SHAH, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 23/04/2026

ORAL ORDER

1. Rule. Learned APP waives service of notice of rule for respondent – State of Gujarat.
2. By way of the present successive 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. 11210055241522 of 2024 registered with Salabatpura Police Station, Surat City** for the alleged offences mentioned in the FIR.
3. Learned advocate Ms. Ketki Jha for the applicant submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. She further submits that the

applicant will keep himself available during the course of investigation and trial also and will not flee from justice. She further submits that this is the successive bail application and as this Court was not inclined to entertain the earlier application seeking anticipatory bail, the same was withdrawn. However, the present successive application is filed on the ground of change of circumstances. She submits that during the interregnum period, the co-accused with identical role has been considered by the Hon'ble Apex Court. A copy of the said order is already appended along with the memo of the application. She submits that in fact at the time of releasing the co-accused, the Hon'ble Apex Court has specifically observed that the issue arose on account of some commercial transaction and therefore considered the anticipatory bail application of the co-accused. She submits that role of the present applicant is identical to that of the co-accused. Thus, considering the principle of parity, applicant may also be enlarged on anticipatory bail by imposing suitable terms and conditions.

4. Learned advocate for the applicant on instructions states that the applicant is ready and willing to abide by all the conditions that may be imposed while releasing the applicant on anticipatory bail. Learned advocate, therefore,

submitted that considering the above facts, the applicant may be granted anticipatory bail.

5. Learned Additional Public Prosecutor Ms. Vrunda Shah appearing on behalf of the respondent – State has objected present application with a vehemence and submitted that considering the merit of the case, as the Court was not inclined to entertain the earlier anticipatory bail application of the applicant, the same was withdrawn by the applicant. She submits that bare perusal of the FIR clearly suggests direct involvement of the applicant in the commission of crime and therefore the application is not required to be entertained by this Hon'ble Court. However, she has fairly conceded before this Court that similarly situated person has already been enlarged on anticipatory bail by the Hon'ble Apex Court by observing that the issue pertains to commercial transaction. She, therefore, submits that appropriate order may be passed.
6. Having heard the learned advocates appearing for the parties and perusing the investigation papers, it is equally incumbent upon the Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of the Hon'ble 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 merit of the case, which may prejudice the accused, should be avoided. I have considered the following aspects.

- (a) the similarly situated co-accused with identical role has been considered by the Hon'ble Apex Court;
- (b) thus, considering the principle of parity, applicant is also required to be enlarged on bail;

7. Considering the aforesaid aspects and the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors.** 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 & Ors.**

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**, I am inclined to allow the present application.

8. In the result, the present application is allowed by directing that in the event of arrest / appearance of the applicant in connection with FIR being **C.R.No.11210055241522 of 2024 registered with Salabatpura Police Station, Surat City**, the applicant shall be released on bail on furnishing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one surety of like amount on the following conditions that applicant:

- (a) shall cooperate with the investigation and make himself available for interrogation whenever required;
- (b) shall remain present at the concerned Police Station on **30.04.2026** between 11.00 a.m. and 2.00 p.m. and the IO shall ensure that no unnecessary harassment or inconvenience is caused to the applicant;
- (c) 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;
- (d) 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;

- (e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change her/his 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) an 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 person who seeks and is granted pre-arrest bail;
 - (h) It is open to the police or the investigating agency to move the learned trial Court for a direction under Section 483(2) 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. At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while enlarging the applicant on bail.
10. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(DIVYESH A. JOSHI, J)

LAVKUMAR J JANI