

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 6617
of 2026****With
R/CRIMINAL MISC.APPLICATION NO. 6624 of 2026
With
R/CRIMINAL MISC.APPLICATION NO. 6627 of 2026
With
R/CRIMINAL MISC.APPLICATION NO. 6802 of 2026****MAHESH PREMJBHAI MOTIVARAS
Versus
STATE OF GUJARAT****Appearance:****MR MONARCH K PANDYA(11437) for the Applicant(s) No. 1
MR YUVRAJ BRAHMBHATT, APP for the Respondent(s) No. 1
MR JAGDISH SATAPARA for the Respondent(s) No. 1****CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL****Date : 30/03/2026****ORAL ORDER**

1. As all these matters arise out of the common FIR, the same are heard together and being decided by this common order.
2. *Rule.* Learned advocates for the respective respondents waive.
3. By these applications under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short, "BNSS"*), the applicants have prayed for anticipatory bail in the event of arrest in connection with the FIR being C.R. No. 11186004260060 of 2026, registered with Prabhas Patan Police Station, District: Gir Somnath for the offences punishable under Sections 409, 406, 420, 468, 471

and 114 of the Indian Penal Code, 1860 (IPC).

4. Facts of the prosecution case in nutshell are that the *de facto* complainant is having three different companies where the accused were working. The original accused No. 1 was working as an Accountant whereas, the other accused were working as Workers in the said companies. As per the allegations in the FIR, the accused persons, in connivance with each other, created false sales bills of fake companies showing sale to the companies of the *de facto* complainant during the period from 2019 to 2021 and also created false and forged documents and opened bank account and thereby, committing criminal breach of trust and forgery, embezzled approximately Rs.7,13,13,025/-. Thus, on the said facts, FIR in question came to be registered.

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

5.1 The learned advocate for the applicants has submitted that;

- a) the applicants are innocent and falsely implicated in the crime in question;
- b) that, for the transactions of 2019 to 2021, FIR is lodged belatedly, in the year 2026 only;
- c) that, the applicants - original accused Nos. 5, 3, 6, and 4

respectively, were not working in the companies of the *de facto* complainant and it is original accused Nos. 2, 4 and 6, who were working under original accused No. 1 in the companies. It is stated that ingredients of offence punishable under Sections 406 and 409 ff the IPC are not attracted inasmuch as the present applicants were never entrusted any property and the property in question was entrusted to the original accused No. 1 only;

d) that, on the contrary, the *de facto* complainant pressurized and threatened the original accused No. 1 and took away his two immovable properties and sale deeds were executed to settle the dispute;

e) so far as applicant in Criminal Misc. Application No. 6624 of 2026, who is accused No. 3 is concerned, it is stated that the *de facto* complainant also pressurized and threatened him and took away his three immovable properties by executing sale deeds to settle the dispute;

f) so far as applicant in Criminal Misc. Application No. 6627 of 2026, who is accused No. 6 is concerned, the *de facto* complainant also pressurized and threatened him and took away his two immovable properties by executing sale deeds to settle the dispute;

- g) so far as applicant in Criminal Misc. Application No. 6802 of 2026, who is accused No. 4 is concerned, the *de facto* complainant also pressurized and threatened him and took away his two immovable properties and executed sale deeds to settle the dispute;
- h) the *de facto* complainant has suppressed the material fact of executing sale deeds of the properties of the applicants by coercion to settle the dispute;
- i) the original accused No. 1 has way back on 12.09.2023 gave a written complaint, addressed to DIG, South Range, Bilkha Road, Junagadh regarding threats being given by the *de facto* complainant to get him involved in false cases, a copy of which is placed on record;
- j) the original accused No. 2 is granted anticipatory bail by this Court vide order dated 11.03.2026 passed in Criminal Misc. Application No. 6132 of 2026;
- k) the applicants have no antecedents.

5.2 The learned advocate for the applicants submitted that the nature of allegations are such that custodial interrogation at this stage is not necessary. It is further submitted that the applicants will keep themselves available during the course of investigation

and trial also and will not flee from justice.

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

6. 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.

6.1 The learned advocate for the *de facto* complainant also vehemently opposing grant of anticipatory bail to the present applicants, submitted that the applicants – accused, in connivance with each other, has committed the crime in question in which, the stake amount is huge. It is stated that fake companies have been created and by forging the documents, sales bills have been generated and thereby, embezzled a huge amount from the *de facto* complainant. Accordingly, it is urged that these being applications for anticipatory bail, considering the nature and gravity of offence, may not be 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 transactions in question are of 2019 to 2021 for which, substantive FIR is filed in the year 2026 only;
- b) there is inordinate delay in lodging the FIR for which, no plausible explanation is forthcoming on record;
- c) as per some of the applicants, the *de facto* complainant has got executed the sale deeds of the properties in his name or in the names his relatives under the pretext of settling the dispute and such fact has not been disclosed by the *de facto* complainant;
- d) the original accused No. 2 is granted anticipatory bail by this Court;

e) a perusal of the written complaint of original accused No. 1, which is on record, which is of the year 2023, precisely dated 12.09.2023, and thereby, much prior to lodging of the present FIR by the *de facto* complainant, reveals the facts otherwise;

f) in the decision in case of *Ashok Kumar v. State of Union Territory 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, considering the role of the present applicant;

g) the applicants stated to have no antecedents;

h) the learned advocates for the applicants have assured that the applicants 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 applications.

9. In the result, the applications are allowed by directing that in the event of arrest/ appearance of the applicants in connection with the above-referred FIR, the applicants shall be released on bail on furnishing a personal bond of **Rs.10,000/- (Rupees Ten Thousand) each** with one surety of like amount **each** on the following conditions that applicants:

- (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 07.04.2026 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 applicants who are granted pre-arrest bail.

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

NITIN MAKWANA

(P. M. RAVAL, J)