

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 8406
of 2026****SHAILESHBHAI MOHANBHAI BARIA
Versus
STATE OF GUJARAT & ANR.**

Appearance:

MR. MAULIK M SONI(7249) for the Applicant(s) No. 1

MR HARDIK SONI, APP for the Respondent(s) No. 1

RULE SERVED for the Respondent(s) No. 2

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 11/05/2026
ORDER**

Though served, none appears for respondent no.2.

[1.0] By way of the present 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. 11821035220235 of 2022 registered with Limkheda Police Station, District Dahod**, for the offences punishable under Sections 363, 366, 376(2) (n) and 114 of the Indian Penal Code, 1860 and under Sections 4, 6, 8 and 17 of the Protection of Children from Sexual Offences Act, 2012.

[2.0] Learned advocate for the applicant submits that the main accused and victim were having love relation and even the victim is residing with the main accused and the present applicant have nothing to do with the relation. He submits that the present applicant being a relative of the main accused and he has been wrongly arraigned as an accused. He submits that the only allegation is levelled against the present applicant is that the

present applicant, who happens to be the uncle of accused no.1, has abducted the victim offering lift on the motorcycle. Further, the applicant is not having any past antecedent. Therefore, custodial interrogation at this stage is not necessary. Besides, the applicant is available during the course of investigation and will not flee from justice. In view of the above, the applicant may be granted anticipatory bail.

[3.0] 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. Hence, he has requested to dismiss the present application.

[4.0] Having heard the learned advocate 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.

- (1) Offence is not punishable with life imprisonment or death penalty;
- (2) A bare perusal of the complaint reveals that present applicant, who happens to be the uncle of accused no.1 has abducted the victim offering lift on the motorcycle to the victim. Except this, no allegation is levelled against the present applicant. The allegation against the present applicant is that he has only facilitated and abeted in the offence. Whatever the allegation of sexual assault qua main accused.
- (3) Applicant is also not named in the FIR.
- (4) Applicant is not having any past antecedent;
- (5) No case of custodial interrogation made out by the prosecution.

[5.0] 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.

[6.0] 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. 11821035220235 of 2022 registered with Limkheda Police Station, District Dahod**, the applicant shall be released on bail on

furnishing a personal bond of **Rs.10,000/- (Rupees Ten 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 25/05/2026 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 439(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.-

[7.0] 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.

[8.0] Rule is made absolute to the aforesaid extent. Application is disposed of accordingly. Direct service is permitted.

ABHISHEK/58

Sd/-
(HASMUKH D. SUTHAR,J)