IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 12685 of 2026

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RASID @ MD. RASHID KHAN S/O MD. BASHIR
Versus
STATE OF GUJARAT
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Appearance:
MR RAVIRAJSINGH H CHOUDHARY(10037) for the Applicant(s) No. 1
MR TIRTHRAJ PANDYA, APP for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR.JUSTICE SANJEEV J.THAKER**

Date : 30/06/2026

ORAL ORDER

1. The present case is a scam of misusing the public welfare scheme floated by the Government for the benefit of economically vulnerable citizens. In the impugned FIR, the allegations are of forging and fraudulently procuring Ayushman Cards to facilitate wrongful gain and depriving the genuine beneficiaries of the welfare scheme floated by the Government. The applicant is named in the FIR in connection with the said scam and he is not available during the investigation, for which Section 72 of the BNSS had to be issued for procuring his presence. The present application is filed by the applicant seeking extraordinary relief of granting anticipatory bail.

2. By way of the present application under Section 482 of

the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"), the applicant – accused has prayed to release him on anticipatory bail in the event of his arrest in connection with the FIR being C.R. No.**11191011240329 OF 2024** registered with DCB Police Station, Ahmedabad for the offences punishable under Sections 316(5), 318(4), 336(2), 338, 336(3), 340(2) and 3(5) of the Bharatiya Nyay Sanhita along with Sections 66(C) and 66(D) of the Information Technology Act.

3. Rule. Learned APP waives service of notice of rule for respondent-State.

4. The FIR was lodged suo-motu by the Police Inspector of the Crime Branch, alleging a widespread conspiracy to defraud the government's Pradan Mantri Jan Arogya Yojna (PMJAY) alleging that certain localized individuals, misused authorized credentials to generate Ayushman Bharat cards for ineligible beneficiaries. It is alleged in the FIR against the present applicant that the co-accused utilized a private web portal/domain to prepare forged Ayushman Cards.

5. Heard learned advocate Mr.Choudhary for the applicant and learned APP Mr.Pandya for the respondent-State.

6. Learned advocate Mr.Choudhary for the applicant has mainly argued that the applicant has absolutely nothing to do with the alleged scam and he is being dragged into this criminal dragnet merely on the basis of suspicion and uncorroborated statements of co-accused persons; that it is specifically alleged in the FIR that the main accused Nikhil Parekh (an employee of the authorized agency who had official access) and Nimesh Dodiya (who actually operated the laptops, printed the cards and collected cash) misused authorized credentials to generate Ayushman Bharat cards for ineligible beneficiaries and the present applicant is nowhere in the picture as an operational beneficiary; that the investigating agency has failed to show any direct link, financial transaction, or physical meeting between the applicant and the beneficiaries or the main culprits in Gujarat and his name is added on the basis of the confessional statements of the co-accused; that the applicant has not demanded, received or routed any share of this illicit money into his bank accounts and has not cheated any beneficiary and that his custodial interrogation would not serve any purpose; that he does not have any criminal antecedents and there is no possibility of fleeing from justice. He, therefore, prayed to allow this application.

7. *Per contra*, learned Additional Public Prosecutor

Mr.Pandya appearing on behalf of the respondent – State has vehemently opposed the present application and has argued, by drawing attention of this Court to the fact that warrant of arrest under Section 72 of the BNSS has been issued against the applicant on account of his alleged non-cooperation with the investigation. In such circumstances, it is urged that custodial interrogation of the applicant is necessary to ascertain the true facts of the case and to facilitate a fair and effective investigation.

7.1. It has also been argued that there are call details between the present applicant and the accused no.5; that there are whatsapp chats between the applicant and the accused no.7; that there are specific allegations in the FIR to the effect that the present applicant, along with the other co-accused have prepared forged and illegal ID card and has prepared false Ayushman Card. He submitted that the custodial interrogation of the present applicant is required to unearth the entire truth. Further, in view of the fact that the warrant under Section 72 of the BNSS is issued against the present applicant, the present applicant cannot be released on anticipatory bail. It is, therefore, urged that this application be dismissed.

8. Heard learned advocates for the respective parties, this Court has considered the rival submissions made by learned counsel for both the sides and considered the material placed on record. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused.

9. From the investigation papers, it is revealed that the present applicant has forged Ayushman Card using portals masterprintcard.shop,shaapprovalporatal.in,shaapprovalportal.in, goldcard print.in and had given the same to accused nos.5 and 7; the investigation papers also show that the photos used for preparing the said Ayushman cards were also tampered; the KYC shows different photos than the captured photos. From the statement of the mother of the applicant, which is shown by the learned APP during the course of arguments, shows that the present applicant was working with the Union Bank before two years and was assisting

them in making the aadhar cards. The investigation papers also show that there are call details between the present applicant and the accused no.5 and there are whatsapp chats between the applicant and accused no.7. In the FIR, there is a specific role attributed to the present applicant that the present applicant, along with other co-accused, has prepared forged and illegal ID card and tampered with the government portal website and has prepared false Ayushman card.

10. Moreover, considering the fact that the applicant has not cooperated with the investigation and subsequently, warrant under Section 72 of the BNSS came to be issued against the applicant on 23.06.2026 and despite the same, the applicant has not remained present and had remained absconded and thereby there could not be progress of the investigation insofar as the present applicant is concerned.

11. In the case of *Lavesh V/s State (NCT of Delhi) reported in (2012)8 SCC 730,* wherein the Hon'ble Apex Court has held in paragraph 12 as under:

> *"12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and declared as "absconder". Normally, when the accused is "absconding" and declared as a "proclaimed*

> *offender", there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail."*

12. In the decision of *State of Madhya Pradesh V/s Pradeep Sharma reported in (2014)2 SCC 171,* the Apex Court has held that if anyone is declared as an absconder/proclaimed offender in terms of Section 82 Cr.P.C., he is not entitled to relief of anticipatory bail. After extracting Section 438, Cr.P.C., it was further held therein thus:-

> *"The above provision makes it clear that the power exercisable under Section 438 of the Code is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there was reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his liberty."*

13. In the case of *Srikant Upadhyay & Ors. V/s State of Bihar & Anr., reported in 2024 INSC 202,* it is held in paragraph 17 as under:

"17. Section 70(2), Cr.P.C. mandates that every warrant issued under Section 70(1), Cr.P.C. shall remain in force until it is cancelled by the Court which issued it, or until it is executed. In this case, as noticed hereinbefore, the bailable warrants and thereafter the non-bailable warrants, were issued against the appellants. They were neither cancelled by the Trial Court nor they were executed. It is not their case that they have successfully challenged them. Xxxxx"

Further, it is held in paragraph 24 as under:

"24. xxxxx, At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, it will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s), continuously, defying orders and keep absconding is not entitled to such grant."

14. Considering the facts of the present case, there is prima facie evidence against the applicant and the present case is not extreme or exceptional case in which this Court has to exercise discretion of granting pre-arrest bail in favour of the applicant.

15. Further in ***Serious Fraud Investigation Office v. Aditya***

***Sarda*, 2025 SCC OnLine SC 764** the Hon'ble Apex Court held as follows:

> *18. Now, so far as anticipatory bail is concerned, this court has consistently emphasized that anticipatory bail should not be granted as a matter of routine,* ***particularly in serious economic offences, involving large scale fraud, public money or complex financial crimes.*** *In P. Chidambaram v. Directorate of Enforcement [(2019) 9 SCC 24; (2019) 3 SCC (Cri) 509; 2019 SCC OnLine SC 1143.] , it was observed as under [See page 57 of (2019) 9 SCC.] :*
>
> "*Grant of anticipatory bail in exceptional cases*
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> *69. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under section 438 of the Code of Criminal Procedure is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation;*

possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail…

71. Article 21 of the Constitution of India states that no person shall be deprived of his life or personal liberty except according to procedure prescribed by law. However, the power conferred by article 21 of the Constitution of India is not unfettered and is qualified by the later part of the article, i.e., '… except according to a procedure prescribed by law'. In State of M.P. v. Ram Kishna Balothia [(1995) 3 SCC 221; 1995 SCC (Cri) 439.] , the Supreme Court held that the right of anticipatory bail is not a part of article 21 of the Constitution of India and held as under : (SCC page 226, paragraph 7)

'7.… We find it difficult to accept the contention that section 438 of the Code of Criminal Procedure is an integral part of article 21. In the first place, there was no provision similar to section 438 in the old Criminal Procedure Code. The Law Commission in its 41st report recommended introduction of a provision for grant of anticipatory bail. It observed:

"We agree that this would be a useful advantage. Though we must add that it is in very exceptional cases that such power should be exercised.'"

In the light of this recommendation, section 438 was incorporated, for the first time, in the Criminal Procedure Code, 1973. Looking to the cautious recommendation of the Law Commission, the power to grant anticipatory bail is conferred only on a court of session or the High Court. ***Also, anticipatory bail cannot be granted as a matter of right. It is essentially a statutory right conferred long after the coming into force of the Constitution. It cannot be considered as an essential ingredient of article 21 of the Constitution. And its non-application to a certain special category of offences cannot be considered as violative of article 21. (emphasis supplied)***

72. We are conscious of the fact that the legislative intent behind the introduction of section 438 of the Code of Criminal Procedure is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. ***However, the court***

must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights—safeguarding the personal liberty of an individual and the societal interest. *It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under article 21 of the Constitution of India…*

…

Economic offences

78. Power under section 438 of the Code of Criminal Procedure being an extraordinary remedy, has to be exercised sparingly; ***more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society****. In Directorate of Enforcement v. Ashok Kumar Jain [(1998) 2 SCC 105; 1998 SCC (Cri) 510; 1998 SCC OnLine SC 30.],* ***it was held that in economic offences, the accused is not entitled to anticipatory bail."***

19. In Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation [(2013) 7 SCC 439; (2013) 3 SCC (Cri) 552; 2013 SCC OnLine SC 452.] , it was observed as under [See page 449 of (2013) 7 SCC.] :

"*34.* ***Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.***

35. ***While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.***"

20. *In Nimmagadda Prasad v. Central Bureau* *of Investigation [(2013) 7 SCC 466; (2013) 3 SCC (Cri) 575; 2013 SCC OnLine SC 454.] , it was observed as under [See page 474 of (2013) 7 SCC.] :*

"*23. Unfortunately, in the last few years, the country has been seeing an* ***alarming rise in white-collar crimes, which has affected the fibre of the country's economic structure. Incontrovertibly, economic offences have serious repercussions on the development of the country as a whole.*** *In State of Gujarat v. Mohanlal Jitamalji Porwal [(1987) 2 SCC 364; 1987 SCC (Cri) 364; 1987 SCC OnLine SC 170.] this court, while considering a request of the prosecution for adducing additional evidence, inter alia, observed as under : (SCC page 371, paragraph 5)*

'*5....* ***The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book****.*

> *A murder may be committed in the heat of moment upon passions being aroused.* ***An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard***

> ***for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white-collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest."***

Further, the Hon'ble Apex Court has held in paragraph 23 of the said judgment, on the point of issuance of non-bailable warrants and initiation of proclamation proceedings as under:

> *"23. In view of the above settled legal position, it is no more res integra that economic offences constitute a class apart, as they have deep rooted conspiracies involving huge loss of public funds, and therefore such offences need to be viewed seriously. They are considered as grave and serious offences affecting the economy of the country as a whole and thereby posing serious threats to the financial health of the country. The law aids only the abiding and certainly not its*

resistants. When after the investigation, a chargesheet is submitted in the court, or in a complaint case, summons or warrant is issued to the accused, he is bound to submit himself to the authority of law. If he is creating hindrances in the execution of warrants or is concealing himself and does not submit to the authority of law, he must not be granted the privilege of anticipatory bail, particularly when the Court taking cognizance has found him prima facie involved in serious economic offences or heinous offences. In such cases when the court has reason to believe that the person against whom the warrant has been issued has absconded or is concealing himself so that warrant could not be executed, the concerned court would be perfectly justified in initiating the proclamation proceedings against him under Section 82 Cr.P.C. The High Courts should also consider the factum of issuance of non-bailable warrants and initiation of proclamation proceedings seriously and not casually, while considering the anticipatory bail application of such accused."

16. In the case of **Siddharam Satlingappa Mhetre vs State Of Maharashtra**, reported in **(2011) 1 SCC 694**, the Hon'ble Court held that life and personal liberty are the most prized possessions of an individual but not at the cost of larger interest of society and public. This is not a case, wherein accused is falsely enraged in the offence with a view to tarnish his image. Considering the fact that the custodial interrogation is required. The Hon'ble Apex Court in the case of **Jai Prakash Singh Vs State of Bihar & Anr.** reported in **2012 4 SCC 379,** has been pleased to hold as under:-

> *"Parameters for grant of anticipatory bail in a serious offences are required to be satisfied and further while granting such relief, the court must record the reasons therefore. Anticipatory bail can be granted only in exceptional circumstances where the Court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty."*

17. It would be apposite to refer the judgment of the Hon'ble Apex Court rendered in case of **Pratibha Manchanda vs. State of Haryana** reported in **AIR 2023 SC 3307**, wherein the Hon'ble Apex Court has observed thus:-

> *"19. The relief of Anticipatory Bail is aimed at*

> *safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome."*

18. In view of the aforesaid, when the investigation is in progress and there is a huge scam of preparing forged Ayushman Cards, the custodial interrogation of the applicant would be necessary to unearth the truth and therefore I am of the considered opinion that there is a prima facie case against the present applicant in the alleged offence and granting anticipatory bail in favour of the applicant will hamper the investigation and investigating agency and I do not find any exceptional grounds to exercise discretion in favour of the applicant.

19. For the foregoing reasons and considering the law laid down in the above cited decisions of this Court as well as the Hon'ble Apex Court, this Court is of view that it is not a fit case to exercise the discretion under Section 482 of BNSS in favour of the applicant. Accordingly, present application does not deserve any consideration and is hereby **dismissed**. Rule is discharged.

20. It is made clear that the observations made in the present order are tentative in nature.

(SANJEEV J.THAKER,J)

SRILATHA