

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 14718 of 2021****With****R/CRIMINAL MISC.APPLICATION NO. 14927 of 2021**

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JAYMIN SURYAKANTBHAI PANCHAL

Versus

STATE OF GUJARAT

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Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1 in Cr. M.A. No.14718 of 2021

MR PRAVIN GONDALIYA for the Applicant in Cr. M.A. No.14927 of 2021

MR LB DABHI, APP for the Respondent(s) No. 1 (in Both the matters)

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 28/07/2022****ORAL ORDER**

1. Heard learned Advocate Mr.Pravin Gondaliya appearing on behalf of the applicant in Criminal Misc. Application No.14927 of 2021, learned Advocate Mr.Ashish Dagli appearing on behalf of the applicant in Criminal Misc. Application No.14718 of 2021 and learned Additional Public Prosecutor Mr.Dabhi on behalf of the respondent-State.
2. By way of these applications under Section 438 of the Code of Criminal Procedure, 1973, the applicants - original accused pray for being released on anticipatory bail in connection with **FIR No.1120100220001 of 2020 (FIR No.5/2020)** registered with **CID (Crime), Ahmedabad Zone, Ahmedabad City** on 14.9.2020 for offences punishable under Sections 406, 409, 420, 114, 120B



of IPC and under Sections 4 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and under Section 3 of the Gujarat Protection of Interest of Depositors (in Financial Establishments) Act, 2003.

3. It would be pertinent to mention here that vide order dated 20.10.2021 (in Criminal Misc. Application No.14927 of 2021) and order dated 5.10.2021 (in Criminal Misc. Application No.14718 of 2021) the respective applicants have been protected by this Court at the interim stage and such protection has enured in favour of the applicants up till now.
4. Learned Advocates Mr.Pravin Gondaliya and learned Advocate Mr.Ashish Dagli for the applicants would submit that the nature of allegations are such for which custodial interrogation of the applicants at this stage is not necessary. Learned Advocates for the applicants would submit that the applicants are falsely implicated in the alleged offence and as such, the applicants have not committed any such offence. Learned Advocates for the applicants would submit that from the bare perusal of the FIR, it would be clear that there is no case made out, which would attract penal provisions for the alleged offence against the present applicants. Besides, the applicants are available during the course of investigation and will not flee from justice. In view of the above, the applicants may be granted



anticipatory bail. Learned Advocates for the applicants on instructions state that the applicants are ready and willing to abide by all the conditions including imposition of conditions with regard to powers of Investigating Agency to file an application before the competent Court for their remand. Learned Advocates would further submit that upon filing of such application by the Investigating Agency, the right of applicants-accused to oppose such application on merits may be kept open.

5. This application has been vehemently opposed by learned Additional Public Prosecutor Mr.Dabhi on behalf of the respondent-State, who would submit that looking to the nature and gravity of the offence the applicants may not be released on anticipatory bail by this Court.
6. Having heard the learned Advocates for the parties and having perused the investigation papers, following aspects are taken into consideration by this Court:
 1. That while the applicants are not arraigned as accused in the array of accused in the FIR, but at the same time, the applicants have been shown as being the Vice Chairman, corresponding to applicant of Criminal Misc. Application No.14718 of 2021, and the Director, corresponding to applicant Criminal Misc. Application No.14927 of



2021;

2. Learned Advocates for the applicants point out that such appointments as of office bearers/Chairman/Director were a unilateral action on behalf of the accused named in the FIR, and whereas even in the Resolutions whereby such appointments have been made, the present applicants have not put their signatures;
3. It also appears that the applicants had immediately upon being appointed submitted their resignations from the said posts and whereas since it appears that appropriate action had not been taken with regard to the same, the applicants also appear to have informed the District Registrar of Cooperative Societies with regard to such resignations by the applicants;
4. It also appears that the signatures of the applicants in the Resolutions , whereby they had been appointed, were sent for signature verification to the Directorate of Forensic Science, Gandhinagar and whereas by a specific opinion about the signature not matching the signature of the applicant of Criminal Misc. Application No.14927 of 2021 has been given by the DFL, no specific opinion could be given in case of the other applicant;
5. It also appears that there are no antecedents of the applicants of having involved in any criminal



activity.

7. Having regard to the circumstances noted above, and considering the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre v. State of Maharashtra and Ors.** reported in **(2011)1 SCC 694**, this Court is inclined to consider this application.
8. In the result, the present application is allowed by directing that in the event of applicants herein being arrested pursuant to **FIR No.1120100220001 of 2020 (FIR No.5/2020)** registered with **CID (Crime), Ahmedabad Zone, Ahmedabad City** on 14.9.2020, the applicants shall be released on anticipatory bail on furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one surety of like amount, on the following conditions that the applicants:
 - (a) shall cooperate with the investigation and make themselves available for interrogation whenever required;
 - (b) shall remain present at the concerned Police Station on **2.8.2022** between 11:00 a.m. and 2:00 p.m.;
 - (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 his residence till the final disposal of the case or till further orders;

(f) shall not leave India without the permission of the Court and, if having passports shall surrender the same before the Trial Court within a week;

(g) shall mark their presence once in every month (on 1st Monday) for a period of next three months at the concerned Police Station;

9. Despite this order, it would be open for the Investigating Agency to file an application for police remand of the applicants to the competent Magistrate, if he thinks it just and proper and learned Magistrate would decide it on merits. The applicants shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the



prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if ultimately granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicants, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order.

10. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the applicants on bail. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(NIKHIL S. KARIEL,J)

V.V.P. PODUVAL