IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 16052 of 2026

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VASI MOBIN ALIAS ANTULEBHAI SHEIKH
Versus
STATE OF GUJARAT

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Appearance:
MR ISA HAKIM(10874) for the Applicant(s) No. 1
MR RONAK RAVAL, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE SANJEEV J.THAKER**

Date : 06/08/2026

ORAL ORDER

1. Cyber fraud is no longer limited to individual victims. It has evolved into a serious organized economic offense that threatens the financial security of numerous innocent citizens and undermines the integrity of the digital banking system. The use of mule accounts and multi-layered transactions makes tracing and recovery of defrauded funds extremely difficult. Given the sharp increase in such crimes and their wide societal impact, courts must adopt a cautious and strict approach when considering the extraordinary relief of anticipatory bail.

2. **Rule**. Learned APP Mr.Ronak Raval waives service of notice of rule for respondent-State.

3. By way of the present Application preferred under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred

to as “BNSS”), the Applicant seeks grant of anticipatory bail in connection with FIR being C.R. No.11191029250361 of 2025 dated 12.12.2025 registered with Rakhiyal Police Station, Ahmedabad City, for the offences, punishable under Sections 317(4), 317(5), 318(2) of the Bharatiya Nyay Sanhita, 2023, and Section 66-D of the Information Technology Amendment Act.

4. Heard learned advocate Mr.Isa Hakim for the applicant and learned APP Mr.Ronak Raval for respondent-State.

5. Learned advocate for the applicant has submitted that a bank account allegedly used for receiving proceeds of the cybercrime was opened at the instance of the Applicant and was thereafter handed over to him for earning commission. It is submitted that the applicant has been falsely implicated solely on the basis of the statements of the co-accused. It is asserted that there is no independent material to establish that the Applicant instructed anyone to open the said bank account, operated the account, received any commission or any amount from the alleged transactions, or was otherwise connected with the proceeds of the offence.

5.1. Learned advocate for the applicant has submitted that he has no criminal antecedents and is willing to cooperate with the investigation. He therefore prays to allow this application.

6. Per-contra learned APP has submitted that the offence involves cheating of victims across different states and the present applicant along with the other co-accused had entered into criminal conspiracy to facilitate the transfer into the bank accounts of other co-accused's for the purpose of handling proceeds derived from cyber fraud and that the applicant is one of the members of the organized syndicate and therefore custodial interrogation of the applicant is necessary to trace the money trail and identify the other co-accused. It has also been argued that the amount involved is substantial and pertains to cyber fraud affecting multiple victims and therefore the custodial interrogation is necessary.

7. Moreover, as the applicant has not cooperated with the investigation the warrant under Section 72 of the BNSS is issued against him therefore as the applicant is directly involved in the said offence and the investigation is going on, the custodial interrogation is necessary to unearth the truth, he therefore prays to dismiss this application.

8. Having heard Ld. Advocates for the respective parties, at the outset, it is required to be noted that this Court is considering an Application for anticipatory bail. It is well settled, by a catena of judgments of the Hon'ble Apex Court, that while deciding such an application, the Court is required to consider, inter-alia, the following factors: (i) whether there exists any prima facie or reasonable ground to believe that the accused has committed the

offence; (ii) the nature and gravity of the accusation; (iii) the severity of punishment in the event of conviction; (iv) the likelihood of the accused absconding or fleeing if released on bail; and (v) the character, behaviour, means, position, and standing of the accused. The role attributed to the present applicant is that the present applicant, along with accused no.2, had got in touch with accused no.1 and informed him that he would receive a 2% commission if his bank account was permitted to be used by accused no.2 and accused no.6. Pursuant thereto, accused no.1 opened a mule account with SBI bearing Account No. 044242251485, through which the alleged transactions took place. It is further alleged that three offences have been registered in relation to the said bank account.

9. Moreover, the statement of co-accused no.1 clearly sets out the prima facie role of the present applicant in operating the said bank account. The said fact is also corroborated by the statement of accused no.2, who has stated that he, along with the present applicant, had approached accused no.1 and requested him to permit accused no.2 and the present applicant to operate the said bank account. Accused no.2 has further stated that he was not aware as to from where accused no.6 had credited the funds into the account of accused no.1 or how the said amounts were subsequently debited from the account and transferred to other accounts. The fact, however, remains that although the account stood in the name of accused no.1, prima facie, it was operated by accused no.2 and the present applicant. Co-accused no.1 has further

stated that, pursuant to the arrangement under which he was to receive a 2% commission for permitting the use of his account, he had in fact received the said commission from the present applicant and accused no.2. Accused no.2 has also confirmed this aspect in his statement by stating that the 2% commission paid to accused no.1 was paid by the present applicant and has further stated that he himself received an amount of Rs.6,000/- in connection with the said transaction.

In the facts of the presetnt case, this Court has taken into consideration the following:

(i) The applicant is prima facie an active facilitator who arranged mule bank accounts essential for carrying out cyber fraud, and not a mere account holder.

(ii) Procuring accounts on rent and paying commission prima facie shows conscious knowledge that they would be used for illegal purposes.

(iii) Custodial interrogation is necessary to unearth the conspiracy, trace the money trail, identify beneficiaries, and recover digital and banking evidence.

(iv) Material evidence including mobile phones, SIM cards, banking credentials and transaction records is yet to be seized, and there is a risk of tampering if arrest is not permitted.

(v) The investigation is at a crucial stage and the full money trail along with the extent of the network is yet to be ascertained.

(vi) Cyber fraud is a serious economic offense with wide societal impact, and courts take a stricter view while considering pre-arrest bail in such matters.

(vii) Anticipatory bail being an extraordinary relief is not warranted where the allegations disclose active participation in organized cybercrime and custodial interrogation is required for effective investigation.

10. The argument that the applicant’s implication rests solely on the statement of a co-accused is a matter that cannot be determined at this preliminary stage. The statement of the co-accused forms part of the evidentiary material gathered during investigation. At this juncture, it would not be proper to assess or weigh the probative value of such statement. Further, the investigating agency is well within its domain to examine the role attributed to the applicant. Custodial interrogation is deemed necessary to ascertain and clarify the extent of the applicant’s involvement in the alleged offence. Since the investigation is still underway, it would be premature to accept the applicant’s submissions and to interfere with the ongoing process of investigation.

11. It is a settled position of law that at the time of investigation, statement of co-accused provides clues to the investigating agency as to how to investigate the case and thereafter the Investigating Officer has to collect evidence against the person who has been named as accused. In view of the said fact, there is no bar on

considering the statement of the co-accused for investigation purpose, irrespective of the fact that the statement of the co-accused to police is not admissible in evidence before the Court, but police can certainly consider that statement as a clue while interrogating him further or other person arrested or interrogated during the course of investigation, as the said confession of co-accused gives a clue to the Investigating Authorities as to how to investigate the matter and against whom to investigate the matter. Therefore, in view of the aforesaid fact, the statement of the co-accused provides a clue for investigation and to unearth the truth, the statement of co-accused is required.

12. In the case of *Kalyan Chandra Sarkar v. Rajesh Ranjan Alias Pappu Yadav, reported in (2004) 7 SCC 528*, the Hon'ble Supreme Court has observed as under:

> *"The next argument of the learned counsel for the respondent is that prima facie the prosecution has failed to produce any material to implicate the respondent in the crime of conspiracy. In this regard he submitted that most of the witnesses have already turned hostile. The only other evidence available to the prosecution to connect the respondent with the crime is an alleged confession of the co-accused which according to the learned counsel*

> *was inadmissible in evidence. Therefore, he contends that the High Court was justified in granting bail since the prosecution has failed to establish even a prima facie case against the respondent. From the High Court order we do not find this as a ground for granting bail. Be that as it may, we think that this argument is too premature for us to accept. The admissibility or otherwise of confessional statement and the effect of the evidence already adduced by the prosecution and the merit of the evidence that may be adduced hereinafter including that of the witnesses sought to be recalled are all matters to be considered at the stage of the trial."*

13. In the case of *Mohammed Fasrin v. State Rep. By the Intelligence Officer, rendered in Criminal Appeal No.296 of 2014*, the Hon'ble Supreme Court observed as under:

> *"…….The confessions of a co-accused gives a clue to the investigating authorities as to how to investigate the matter and against whom to investigate the matter. Thereafter, it is for the investigating officers to collect evidence against*

> *the said person who has been named by the co-accused.....”*

14. It is evident from the aforesaid decisions that a statement of a co-accused can be considered and treated as a clue or a piece of information for the purposes of initiating and conducting an inquiry or investigation, or for directing the investigation or inquiry in a particular direction, with the objective of ascertaining whether there exists any independent, satisfactory, and reliable material which may support, justify, or provide a reason for continuing the inquiry or investigation, or for initiating further investigation.

15. The investigation is at a nascent stage and custodial interrogation of the applicant is necessary to unearth the source, the extent of the network, and the role of other conspirators.

16. Further, it has also been brought to the notice of this Court that the applicant has not appeared and has not cooperated with the investigation after he was granted transit bail and therefore warrant under Section 72 of the BNSS was issued against him on 02.05.2025 which is prior to filing of this application i.e. on

22.04.2026.

17. 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."*

18. 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."

19. 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, <u>At any rate, when warrant of arrest or proclamation is issued, the applicant is not</u>

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."

20. In the present case, the warrant of arrest under Section 72 has already been issued and the present case is not of extreme exceptional case where this Court is required to invoke extra ordinary power in granting pre-arrest bail.

21. 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."

22. Considering the specific allegations against the applicant, arranging bank accounts on rent, paying commission to account holders, and enabling the receipt and transfer of proceeds from cyber fraud, this Court is of the prima facie view that the applicant was an active participant in the offense, not merely a passive bystander. In view of the seriousness of the allegations and the need for custodial interrogation to uncover the larger conspiracy, trace the money trail, identify the ultimate beneficiaries, and recover digital evidence, this Court does not find this to be a fit case for granting the extraordinary relief of anticipatory bail under Section 482 of the BNSS.

23. In the result, the present application, being devoid of merit, stands **rejected**. Rule is discharged.

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

(SANJEEV J.THAKER,J)

URIL RANA