

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 19569
of 2025**

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ATULBHAI JASVANTBHAI RAJYAGURU**Versus****STATE OF GUJARAT**

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Appearance:**MS. SHIVANGI M RANA(7053) for the Applicant(s) No. 1****MR. HARDIK SONI APP for the Respondent(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 07/10/2025****ORAL ORDER**

1. Rule. Learned APP waives service of notice of rule for respondent – State of Gujarat.
2. 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.I-11190005250227 of 2025 registered with Paliyad Police Station, Botad, for the alleged offences as mentioned in the FIR.
3. Learned Advocate Ms. Shivangi Rana appears for the applicant submits that as per the case of the prosecution the so-called incident occurred during the period between 13.08.2018 to 23.02.2020 whereas FIR is registered on 01.07.2025. There is gross delay of five years in registering the FIR, and there is no whisper and/or explanation worth the name in the entire body of the FIR about the delayed

registration of the FIR. FIR is registered against a total of 17 persons wherein name of the present applicant is mentioned at serial no.4. She further submits that, in fact, applicant is a part-time contractual employee working with the Gram Panchayat and as a part of his job profile applicant has to click the photographs/pictures of the place on three different occasions. First, before the commencement of the work; second, during the mids of the time of work being carried out by the employees; and third, after completion of the work, and after carrying out said activity, he has to upload those photographs upon the website. She submits that, in fact, herein this case on hand, before commencement of work, certain photographs/pictures have been clicked and uploaded on the website as per the part of the job of the applicant, based upon which measurement shifts were prepared by the authority concerned and subsequently before completion of the work, based upon the said photographs/pictures, bills were prepared and cleared, applicant herein has not derived any benefit from the said bills, and as such there is no role on the part of the applicant to clear the bill. The said work assigned to the different entity/persons and upon act of those persons applicant has no control, and therefore, applicant may be enlarged on bail. She further submits that the role of the present applicant is identically similar with the role of the co-accused person who has already been enlarged on bail, therefore, considering the principle of law of parity, bail application of the applicant is required to be granted.

4. Learned advocate for the applicant submits that the nature

of allegations are such for which custodial interrogation at this stage is not necessary. He further submits that the applicant will keep himself available during the course of investigation, trial also and will not flee from justice.

5. Learned advocate for the applicant on instructions states that the applicant is ready and willing to abide by all the conditions that may be imposed while releasing the applicant on anticipatory bail. Learned advocate, therefore, submitted that considering the above facts, the applicant may be granted anticipatory bail by imposing suitable terms and conditions.
6. Learned APP Mr. Hardik Soni appears for the respondent - State has objected the present application with vehemence and submitted that name as well as specific role of the applicant is clearly found out in the body of the FIR. He further submits that, in fact, pursuance to registration of FIR, investigation commenced, and investigating officer concerned has submitted chargesheet against all the 16 accused persons except the present applicant out of which 8 accused persons have already been released on regular bail and anticipatory bail applications of rest of the accused persons have already been considered by this Hon'ble court as well as trial court. Considering the above-stated factual aspects, this is a fit case wherein discretionary power of bail is not required to be exercised. However, learned APP Mr. Soni has fairly conceded before this Hon'ble court that at the time of taking photographs/pictures geo-tag is required to be made, applicant herein has clicked the pictures/photographs of the place before commencement of the work, and based upon those documents measurement

shits have been prepared, and subsequently other co-accused persons have prepared the bills and cleared the bills for the third party. Considering the same, appropriate order may be passed.

7. Having heard the learned advocates appearing 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.
8. I have considered the following aspects.
 - (a) That as per the case of the prosecution the so-called incident occurred during the period between 13.08.2018 to 23.02.2020 whereas FIR is registered on 01.07.2025, therefore, there is gross delay of five years in registering the FIR, however, no explanation is given with that regard in the entire body of the FIR.
 - (b) It transpires from the record that the applicant herein

is a part-time contractual employee working with the Gram Panchayat and as a part of his job profile applicant has to click the photographs/ pictures of the place and has to upload those photographs upon the website. It further transpires that applicant herein has clicked the pictures/photographs of the place before commencement of the work, and based upon those documents, measurement sheets have been prepared, and subsequently other co-accused persons have prepared the bills and cleared the bills for the third party before completion of the work, however, applicant herein has not derived any benefit from the said bills as there is no role on the part of the applicant to clear the bills.

(c) It further transpires from the record that other co-accused persons have already been granted bail by this Hon'ble court as well as trial court and role of the present applicant is identical and similar with the co-accused person. Therefore, considering the nature of the offence as well as principle of law of parity, present application deserves to be allowed.

9. 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.

10. 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.I-11190005250227 of 2025 registered with Paliyad Police Station, Botad, 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 10.10.2025 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 483(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.

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

(DIVYESH A. JOSHI,J)

AMIT ITALIAN

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AMIT DAHYABHAI ITALIAN(HCW0112), ENGLISH STENOGRAPHER GRADE I, at High Court of Gujarat on 08/10/2025 12:16:43