

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 19767
of 2025**

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ABDUL AZIMKHAN NASIRKHAN PATHAN & ORS.

Versus

STATE OF GUJARAT

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Appearance:

MS TASNIM A ZABUAWALA(10756) for the Applicant(s) No. 1,2,3

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

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 03/10/2025****ORAL ORDER**

1. At the outset, learned advocate Mr. Bharda appears for the applicants submits that considering the role attributed to the applicant no.3 at the time of commission of crime, he does not press the present application qua the applicant no.3. Hence, this application stands disposed of as not pressed qua the applicant no.3.
2. Rule. Learned APP waives service of notice of rule for respondent – State of Gujarat.
3. By way of the present application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”), the applicants have prayed for anticipatory bail in the event of arrest in connection with the FIR being C.R. No. 11191012250413 of 2025 registered with Danilimda Police Station, District: Ahmedabad, for the

alleged offences as mentioned in the FIR.

4. Heard learned advocate Mr. Zubin Bharda assisted by learned advocate Ms. Tasnim Zabuawala for the applicant submits that as per the case of the prosecution the so-called incident occurred on 21.06.2025 and on the same day FIR is registered against total 5 persons wherein name of the applicants are mentioned at serial nos.1 & 3 respectively. He further submits that applicant no.1 has sustained very serious injury as sword blow inflicted upon his head by rival parties, and the applicant no.1 was immediately shifted to the hospital and 5 stitches have been taken upon his head, and applicant herein has tried his best to register FIR against the accused persons but reason best known to the police officer, the said FIR has not been registered within time, and the said fact is clearly fortified from the record available as the incident occurred on 21.06.2025 and cross FIR has been registered by the police on 23.06.2025. He read the FIR and submits that no specific role is attributed to the present applicant, at the most, as per the case of the prosecution, it can be said that applicant is available at the place of occurrence except that no other specific role is attributed to him and he had sustained the injuries. He further submits that, in fact, there was long-standing disputes between the builder and the present applicant. The applicant is advocate by profession, he has filed a civil suit wherein a stay has been granted by this Hon'ble court.
5. Learned advocate Mr. Bharda further submits that after

occurrence of the so-called incident on the strength of the instructions issued by the builder one person had circulated a video on Instagram specifically stating that anybody would like to register FIR against the present applicants, in that event, they will assist in all manner, and based upon which number of FIRs have been registered against the applicants. He was already arrested and released on regular bail. He submits that, in fact, at the time of hearing of the bail application of the applicant, it is brought to the notice of the Hon'ble trial court that he is in judicial custody of the same police station wherein second FIR is registered for that he has filed anticipatory bail application, and the said fact is well within the knowledge of the police officer, he has not been shown as arrested accused person. He further submits that as soon as second FIR registered against the present applicant, immediately, he has approached this Hon'ble court wherein investigation was stayed by this Hon'ble court considering the fact that fortunately applicant is in a position to show the Hon'ble court that the complainant was, in fact, in judicial custody as per case of the prosecution, present applicant had administered threat to extort money from him and considering those material protection has been extended in favour of the applicant by this Hon'ble court. Considering the above totality of the facts of the matter, this is a fit case wherein discretionary power of bail may be entertained in favour of the applicants.

6. Learned advocate for the applicants submits that the

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

7. Learned advocate for the applicants on instructions states that the applicants are ready and willing to abide by all the conditions that may be imposed while releasing the applicants on anticipatory bail. Learned advocate, therefore, submitted that considering the above facts, the applicants may be granted anticipatory bail by imposing suitable terms and conditions.
8. Learned APP Mr. Hardik Soni has objected the present application with vehemence and submitted that name and specific role of the applicants is described by the complainant in a very graphical manner. He further submits that sequence of incidents of event crystallized the position of fact that present applicants are available at the place of occurrence and they have made assault upon the members of the complainant and victim. The documents collected by the investigating officer clearly go on to show involvement of the applicants in commission of crime, therefore, Hon'ble court may not have to exercise discretionary power of anticipatory bail in favour of the applicants.
9. 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.

10. I have considered the following aspects.

- (a) That as per the case of the prosecution, the so-called incident occurred on 21.06.2025 and on the same day FIR is registered. It prima-facie transpires that the applicant no.1 has sustained very serious injury as sword blow inflicted upon his head by rival parties, and the applicant herein has also tried his best to register FIR against the accused persons, however, it appears from the record that the said FIR has not been registered within time as the incident occurred on 21.06.2025 and cross FIR has been registered by the police on 23.06.2025.
- (b) It further prima-facie transpires that no specific role is attributed to the present applicant no.1 except

that applicant is found available at the place of occurrence.

- (c) It further transpires from the record that there was long-standing disputes between the builder and the present applicant, and the applicant is advocate by profession and he has filed a civil suit wherein a stay has been granted by this Hon'ble court.
- (d) It further transpires that there are antecedents against the present applicants, however, it appears that after occurrence of the so-called incident, on the strength of the instructions issued by the builder one person had circulated a video on Instagram specifically stating that anybody would like to register FIR against the present applicants, in that event, they will assist in all manner, and based upon which number of FIRs have been registered against the applicants, however, he was arrested and subsequently released on regular bail.
- (e) It further transpires that with regard to the second FIR registered against the present applicant, investigation was stayed by this Hon'ble court as the applicant is in a position to show the Hon'ble court that the complainant was, in fact, in judicial custody as per case of the prosecution.
- (f) So far as role of the applicant no.2 is concerned that he was found available at the place of occurrence, and after verifying the injury certificate and after considering the injury sustained by the victim and the complainant as well as other

attendant circumstances/material available on record, I am of the opinion that bail application of the applicant is required to be entertained.

11. 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.
12. In the result, the present application is partly allowed qua the applicant no.1 & 2 by directing that in the event of arrest / appearance of the applicants in connection with FIR being C.R. No. 11191012250413 of 2025 registered with Danilimda Police Station, District: Ahmedabad, the applicant shall be released on bail on furnishing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) each with one surety of like amount on the following conditions that 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 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 applicants;

- (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 their 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.
13. 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.

14. Rule is made absolute to the aforesaid extent qua the applicant no.1 & 2. Rule is discharged qua applicant no.3. 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 06/10/2025 18:22:09