



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION NO. 20394 of 2019**

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DILIPBHAI JETHALAL CHAUHAN
Versus
STATE OF GUJARAT

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Appearance:

MR SUDHANSHU S PATEL(655) for the Applicant(s) No. 1
MR.L.B.DABHI, APP, (2) for the Respondent(s) No. 1
MR. R.J.GOSWAMI, for the Original Complainant

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CORAM: **HONOURABLE MR.JUSTICE A.Y. KOGJE**

**Date : 10/12/2019
ORAL ORDER**

1. This application is filed by the applicant under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail in the event of his arrest in connection with FIR registered at **C.R. No.I-432 of 2019 with Sola High Court Police Station, Ahmedabad** for the offence punishable under Sections 406, 409, 420, 465, 467, 468 and 471 of the Indian Penal Code.

2. Learned Advocate appearing on behalf of the applicant would submit that considering the nature of offence, the applicant may be enlarged on anticipatory bail by imposing suitable conditions.

3. On the other hand, the learned Additional Public Prosecutor appearing for the respondent-State has opposed this application and granting anticipatory bail to the applicant looking to the nature and gravity of the offence.

4. I have heard the learned advocates appearing for the respective parties, perused the investigation papers and have



also taken into consideration the facts of the case, nature of allegations, role attributed to the applicant- accused. Without discussing the evidence in detail, at this stage, I am inclined to grant anticipatory bail to the applicant. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Others**, reported at [2011] 1 SCC 6941, wherein the Hon'ble Apex Court has reiterated the law laid down by the Constitutional Bench in the case of **Shri Gurubaksh Singh Sibbia and others**, reported at (1980) 2 SCC 665.

Following aspects are also considered:-

I) The First Information Report is registered on 08.09.2019 for the offence which is alleged to have taken place from October 2018 till today.

II) Submission of learned advocate for the applicant is that the FIR is registered only on account of internal account dispute between the two partners, who were given the contract for services by the Government. It is submitted that the applicant has legitimately opened an account and deposited the money in the account in the name of partnership firm which was within the knowledge of the complainant as the applicant was in fact responsible for day to day administration and incurring of expenditure for running contract.

III) Learned advocate for the complainant brought to the notice of this Court that the applicant has though



received the huge amount of contract in his separately opened account, but was not paying the Government dues to which learned advocate for the applicant, under the instructions, states that the applicant is ready and willing to file an undertaking that all the PF/ESI dues upto September-2019 of the M/s. Spire Enterprise will be cleared by the applicant within a period of one month from today and even the GST dues arising from October-2018 to September-2019 will also be cleared by the applicant.

IV) Considering the nature of offense and the existing partnership dispute and complainant being a partner of the applicant.

V) Learned Additional Public Prosecutor under the instructions of the Investigating Officer is unable to bring on record any special circumstances against the applicant.

5. Learned Advocate for the applicant on instructions states that the applicant is ready and willing to abide by all the conditions, including imposition of conditions with regard to the powers of Investigating Agency to file an application before the competent court for his remand. He would further submit that upon filing of such application by the Investigating Agency, the right of the applicant-accused to oppose such application on merits may be kept open.

6. In the result, the present application is allowed by directing that in the event of arrest of the applicant herein in connection with FIR registered as **C.R. No.I-432 of 2019 with**



Sola High Court Police Station, Ahmedabad the applicant shall be released on bail on his furnishing a personal bond of Rs.10,000/- (Rupees ten thousands only) with one surety of the like amount on the following conditions that he :

(a) shall cooperate with the investigation and make himself available for interrogation whenever required;

(b) shall remain present at the concerned Police Station on **13.12.2019** between 11.00 AM and 02.00 PM;

(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 shall 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 till further orders without the permission of Trial Court;

(f) To mark presence once in fifteen days before the concerned Police Station till filing of the charge-sheet

(g) shall not leave India without the permission of the Trial Court and if having passport, shall deposit the same before the Trial Court within a week; and

(h) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide the same on merits;

(i) to clear all PF/ESI dues upto September-2019 of M/s. Spire Enterprise having address as A/9, Parag Apartment, Besides Rabbar Factory, Bhavnagvar and GST dues from October-2018 to September-2019 of M/s. Spire Enterprise having address as A/9, Parag Apartment, Besides Rabbar Factory, Bhavnagvar. All the payments of



Government dues are subject to final settlement of account between the partners.

(j) to file an undertaking to the aforesaid effect within a period of one week from today before this Court.

7. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for Police remand of the applicant. The applicant 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 applicant, 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.

8. 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. The application is allowed accordingly. Rule is made absolute in the aforesaid terms. Direct service is permitted.

(A.Y. KOGJE, J)

Siddharthp