

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 10880  
of 2024**

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RAJENDRA LALUBHAI DAMA  
Versus  
STATE OF GUJARAT

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Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1  
MS. JIRGA JHAVERI, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**

**Date : 19/06/2024**

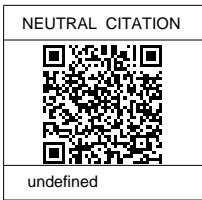
**ORAL ORDER**

1. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant-accused has prayed for enlarging the Applicant on anticipatory bail in connection with the FIR being C.R. No. 11191033240148/2024 registered with Meghani Nagar Police Station, Ahmedabad for the offenses punishable under Sections 306, 498A, 323 of the Indian Penal Code.

2. Heard learned Advocate Mr. Ashish M. Dagli for the Applicant and learned APP Ms. Jirga Jhaveri for the Respondent - State.

Rule. Learned APP waives service of notice of rule on behalf of the Respondent - State.

3. Learned Advocate for the Applicant has submitted that the Applicant is apprehending arrest in connection the aforesaid FIR and in this connection the earlier application filed by the Applicant before the learned Sessions Court came to be dis-allowed. He submitted that considering the

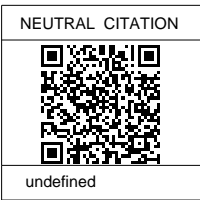


facts stated in the Application, the applicant may be granted anticipatory bail.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent – State has opposed grant of anticipatory bail looking to the nature and gravity of the offence. She submitted that the married life between the present applicant and the deceased was merely eight months. Therefore, the presumption under the Evidence Act would run against the present Applicant. He further submitted that during the short span of married life the deceased was subjected to physical and mental torture at the hand of the present Applicant and he had also doubted the deceased for her character and therefore the deceased had committed suicide. Learned APP has therefore prayed that the present Application may be dismissed.

5. Heard learned Advocates for the parties and perused the record. At the outset, it is required to be noted that the alleged incident had taken place on 19.9.2023 whereas the FIR came to be lodged on 12.3.2024. In the interregnum an accidental death case was registered by the police and while inquiring in the said case, statements of all the family members of the deceased including the first informant who happens to be the father of the deceased were recorded. In the said statements none of the family members had raised any doubt about the deceased having been subjected to any physical and mental torture by the present Applicant. However, after the said accidental case was closed, the present FIR had been lodged after six months. From the record it appears that the present applicant as well as the deceased were living separately because of their jobs and there is nothing on record to indicate that on the date of incident i.e. on 19.3.2023 both of them were together.

6. Having heard the arguments advanced by the learned advocates



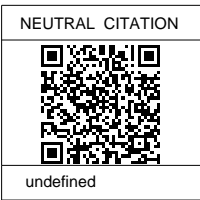
for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offence and the role attributed to the accused, I am inclined to grant anticipatory bail to the applicant.

7. This Court has considered following aspects,
- (a) as per catena of decisions of Hon'ble Supreme Court there are mainly two factors which are required to be considered by this court;
    - (i) prima facie case
    - (ii) requirement of accused for custodial interrogation.

Therefore, in the facts and circumstances of the present case, this court is inclined to consider the case of the applicant.

8. 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 Ors.**, reported at [2011] 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of **Shri Gurubaksh Singh Sibbia & Ors. Vs. State of Punjab**, reported at (1980) 2 SCC 565. Further, this Court has also taken into consideration the ratio laid down in the case of **Sushila Aggarwal and Ors. v. State (NCT of Delhi) and Anr. in Special Leave Petition No. 7281-7282/2017 dated 29.01.2020.**

8.1 This court has also considered the judgment in the case of **Arnesh Kumar v. State of Bihar** reported in (2014) 8 SCC 273, wherein the Hon'ble Apex Court has observe that whenever there is punishment of 7 years, then the court would be liberal to exercise the discretion. Further, by exercising the discretion under Section 438 Cr.P.C, the doors of remand by the Investigating Officer is open and therefore also this court is inclined to exercise powers



under Section 438 of Cr.P.C.

9. In the result, the present application is allowed. The applicant is ordered to be released on anticipatory bail in the event of arrest in connection with a FIR being No. 11191033240148/2024 registered with Meghani Nagar Police Station, Ahmedabad for the offenses punishable under Sections 306, 498A, 323 of the Indian Penal Code, on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of like amount on the following conditions;

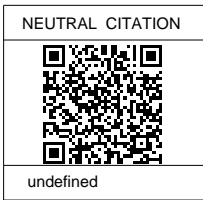
(a) shall cooperate with the investigation and make available for interrogation whenever required;

(b) shall remain present at concerned Police Station on 26.6.2024 between 12.00 Noon 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 residence till the final disposal of the case till further orders;



(f) shall not leave India without the permission of the concerned trial court and if having passport shall deposit the same before the concerned trial court within a week; and

10. At the trial, the concerned trial court shall not be influenced by the prima facie observations made by this Court in the present order.

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

**(M. R. MENGDEY,J)**

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