

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 3325
of 2024**

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MUKESH RAMSAHAY BIRLA
Versus
STATE OF GUJARAT

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Appearance:

MR BHAVIK R SAMANI(8339) for the Applicant(s) No. 1
MR HK PATEL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI

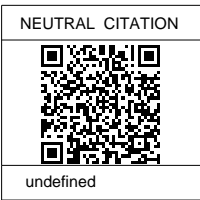
Date : 09/05/2024

ORAL ORDER

1. By way of the present petition under Section 438 of the Code of Criminal Procedure, 1973, the petitioner has prayed to release him on anticipatory bail in case of his arrest in connection with the FIR registered as C.R.No.I-11210030231153 of 2023 registered with Mahidharpura Police Station, Surat.

2. Learned advocate for the petitioner submits that considering the nature of allegations, role attributed to the petitioner, the petitioner may be enlarged on anticipatory bail by imposing suitable conditions. Learned advocate for the petitioner has produced undertaking of the petitioner, which is taken on record.

3. 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.



4. Having heard the learned counsel for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused, without discussing the evidence in detail, at this stage, I am inclined to exercise discretion in favour of the petitioner. I have considered the following aspects.

- (i) Prima facie, it appears that case is relating to commercial transaction.
- (ii) The petitioner has filed undertaking dated 25.04.2024 before this Court. In para 1 to 4, it is stated as under :-

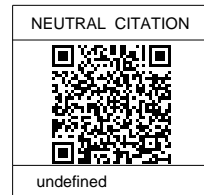
"(1) I am filing this undertaking with a view to show my bonafide without any prejudice.

(2) That I undertake to pay Rs.3,00,000/- (Three Lakhs only) within a period of 6 months from the date of order by this Hon'ble Court.

(3) That I undertake I would deposit the same to the court concerned before the stipulated period.

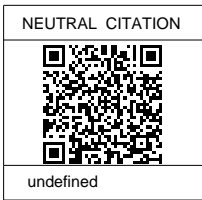
(4) That I further undertake to deposit the amount in connection with FIR registered at C.R. 11210030231153 of 2023 registered with Mahidharpura Police Station, Surat for the offence punishable under section 420 and 114 of the Indian Penal Code, without any prejudice to my rights."

- (iii) Learned advocate for the petitioner submits that the petitioner is ready and willing to abide any conditions which may be imposed by this Court.



5. Having heard the learned advocate 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) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail. 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.

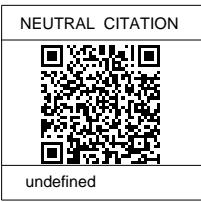
6. This Court while exercising discretion in favour of the petitioner has taken into consideration law laid down by the Apex Court in the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors.** [2011] 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitutional Bench in the the case of **Shri Gurubaksh Singh Sibbia & Ors. Vs. State of Punjab** (1980) 2 SCC 665. This Court has also taken into consideration law laid down in the case of **Sushila Agarwal v/s. State (NCT of Delhi [(2020) 5 SCC 1]**.



7. In the result, the present petition is allowed by directing that in the event of applicant herein being arrested pursuant to FIR registered as **C.R.No.I-11210030231153 of 2023 registered with Mahidharpura Police Station, Surat**, the petitioner 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 the petitioner :

- (a) shall cooperate with the investigation and make himself available for interrogation whenever required;
- (b) shall remain present at concerned Police Station on **22.05.2024 and 23.05.2024** between 10.00 a.m. and 4.00 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;

8. If breach of any of the above conditions is committed by the petitioner, the concerned learned Judge will be free to take appropriate action in the matter. It will be open for the



concerned Court to delete, modify and/or relax any of the above conditions in accordance with law. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the petitioner on bail. Direct service is permitted.

SATISH

(J. C. DOSHI,J)