

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

**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 6850  
of 2024**

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PALLAVIBEN D/O DINESHBHAI PANCHALA W/O SANJAYBHAI BAVALIYA  
Versus  
STATE OF GUJARAT

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Appearance:

MS URVASHI K MEHTA(11469) for the Applicant(s) No. 1

MR HK PATEL, ADDL PUBLIC PROSECUTOR for the Respondent(s) No. 1

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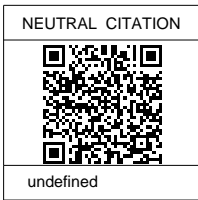
**CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI**

**Date : 23/04/2024**

**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.11208058240012 of 2024** registered with **Airport Police Station, Rajkot City**.

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. She would submit that petitioner is facing the charges, though she is not involved in the offence. She would further submit that there was some general dispute between the deceased and the petitioner being husband and wife and that cannot be a reason for committing

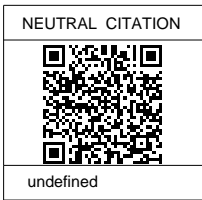


suicide. Learned advocate would submit that petitioner is permanent resident of Rajkot and she will co-operate in investigation and request to allow the petition.

3. On the other hand, 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. Learned APP would submit that due to harassment by the petitioner, deceased has committed suicide and therefore prima facie case is established against the petitioner and request to dismiss the petition.

4. Heard the learned Advocates for the respective parties and perused the papers.

5. Having heard the learned advocate for the parties and perusing the investigation papers, it is found that FIR on its face does not disclose the offence under Section 107 of the Indian Penal Code being necessary for proposing the charge under Section 306 of the Indian Penal Code. It is stated in the FIR that since last One year there is some general dispute between husband and wife and therefore petitioner went to her parental home and was seeking money and because of that deceased has committed suicide. However, to prove the offence under Section 306 of the Indian Penal Code, the prosecution must satisfy the ingredients of Section 107 of the Indian Penal



code. Section 107 of the Indian Penal Code reads as under;

***“Section 107 : Abetment of a thing***

*A person abets the doing of a thing who -*

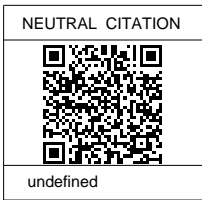
*First - Instigates with one or more other person to do that thing; or*

*Secondly – Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or*

*Thirdly – Intentionally aids, by any act or illegal omission, the doing of that thing”*

5.1 According to FIR essential ingredients of Section 107 IPC is not made out. In view of that, prima facie, offence under Section 306 IPC is not made out.

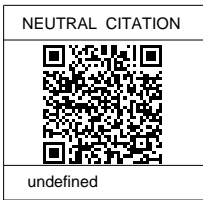
6. Moreover, it is equally incumbent upon the Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of the Hon’ble Apex Court on the point. It is well settled that, among other circumstances, the factors to be 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. I have considered the following aspects.

- (1) Petitioner is a lady aged about 21 years of age
- (2) Petitioner is permanent resident of Rajkot City.
- (3) There are allegations of general dispute between husband and wife in the FIR.

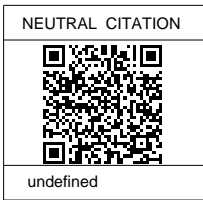
7. Having heard the learned counsel for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused, without discussing the evidence in detail, at this stage, I am inclined to exercise discretion in favour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



8. 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]**.

9. 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.11208058240012 of 2024** registered with **Airport Police Station, Rajkot City**, 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 **29.04.2024** 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;

10. 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.

DRASHTI K. SHUKLA

**(J. C. DOSHI,J)**