

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL APPEAL (FOR ANTICIPATORY BAIL) NO. 754 of
2024**

=====

NITABEN PRADIPBHAI CHAUDHARY
Versus
STATE OF GUJARAT & ANR.

=====

Appearance:

MR NITIRAJ N DESAI(12864) for the Appellant(s) No. 1
MS.AKSHITABA SOLANKI(6782) for Opponent(s)/Respondent(s) No. 2
MR CH DAVE, ADDL.PUBLIC PROSECUTOR for Opponent/Respondent No.1

=====

CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 06/05/2024
ORAL ORDER

1. The present appeal is filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act") read with Section 438 of the Code of Criminal Procedure, 1973, the appellant accused has prayed to release her on anticipatory bail in the event of her arrest in connection with the FIR being **C.R. No.11191024240110 of 2024 with Ramol Police Station, Ahmedabad.**

2. Learned advocate for the appellant submits that considering the nature of allegations, role attributed to the appellant, the appellant may be enlarged on anticipatory bail by imposing suitable conditions.

3. Learned Additional Public Prosecutor as well as learned advocate for the complainant appearing on behalf of the respondent-State and respondent complainant respectively have



opposed grant of anticipatory bail looking to the nature and gravity of the offence. Upon such submissions, both the learned advocates pray to dismiss the appeal.

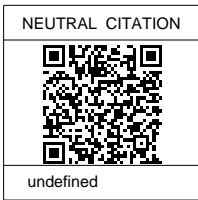
4. Heard the learned Advocates for the respective parties and perused the papers.

5. 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 appellant for the following reasons : -

(I) Relevant and essential ingredients under the Atrocities Act are not attracted on prima facie reading of the documents.

(II) The case is otherwise for offence punishable u/s 323, 504 and 506(2) of the IPC and none of the offences have maximum punishment of more than seven years. Thus, in that circumstances, guidelines issued in the case of **Arnesh Kumar v/s. State of Bihar [(2003 (8) SCC 273]** reiterated in the case of **Md. Asfak Alam Vs. The State of Jharkhand and another reported in 2023 INSC 660** and pursuant to which, Circular No.C.2703/81 issued by this Court shall be followed.

6. In above consideration, the appellant has made out prima facie case to get the anticipatory bail. This Court is conscious that statutory bar is operating while granting anticipatory bail under the provisions of the Scheduled Castes and the

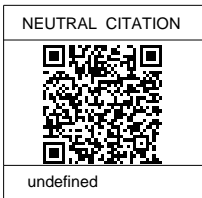


Scheduled Tribes (Prevention of Atrocities) Act. But looking to the above reasons along with prima facie case, nature and gravity of the accusation and severity of the punishment as well as absence of flight-risk character, behaviour, means and position of the accused as well as non-likelihood of the offence being repeated and taking assistance of the judgment of the Hon'ble Apex Court in the case of **Prithviraj Chauhan vs Union of India**, reported in **(2020) 4 SCC 727**, this is a fit case to exercise jurisdiction.

7. 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 appeal.

8. In the result, the present appeal is allowed by directing that in the event of appellant herein being arrested in connection with the FIR being **C.R. No.11191024240110 of 2024 with Ramol Police Station, Ahmedabad**, the appellant 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 she:

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



(b) shall remain present at the concerned Police Station on 20.05.2024 and 21.05.2024 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 appellant;

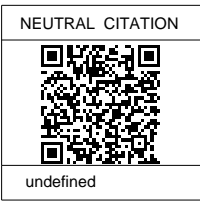
(c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

(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 his 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; and

(g) 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 it on merits.



9. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the appellant on bail. It is needless to say, the observations made hereinabove are only tentative in nature and the trial Court shall not be influenced by the aforesaid observation.

Direct service is permitted.

GAURAV J THAKER

(J. C. DOSHI, J)