

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 7625
of 2024**

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SUNIL SURENDRAKUMAR KAKKAD
Versus
STATE OF GUJARAT

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Appearance:

MR MAULIK NANAVATI FOR ADITYA A GUPTA(7875) for the Applicant(s)
No. 1
MR SOHAM JOSHI, APP for the Respondent(s) No. 1

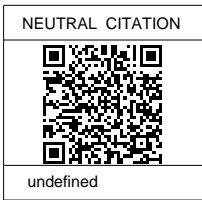
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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI**Date : 23/04/2024****ORAL ORDER**

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.11193004230654 of 2023 registered with Amreli Rural Police Station, Amreli.

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.

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.

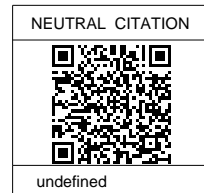


4. Heard the learned Advocates for the respective parties and perused the papers.

5. Having heard the learned advocate for the parties and perusing the investigation papers, it is 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) In view of the written communication from the Central Drug Laboratory, the product which was sold by the petitioner is permissible to be sold in the State of Gujarat.

(2) The Food and Drugs Control Administration,



Ahmedabad Rural has withdrawn the previous communication dated 5.9.2023 and recalled the order of stopping selling of the subjected drug vide communication dated 8.1.2024. The relevant observations are as under:-

“SUBJECT-Drugs and Cosmetics act 1940 and Rules thereunder Retesting Test reports by Central Drugs Laboratory, Pharmacopeia Commission of Indian Medicine and Homeopathy, Ghaziabad of following drug 1. SUNNINDRRA 400ml Batch No. SU103 Mfg by- AMB PHARMA 2. STONEARISHTHA 400ml Batch No. ST402 Mfg by- AMB PHARMA 3. StoneHeal 400ml Batch No. SH303 Mfg by- AMB PHARMA 4. Natural Booster 400ml Batch No. NB102 Mfg by HERBOGLOBAL HEALTHCARE Reference - Sample retesting application before Hon. Addl. Chief Judicial Magistrate, Sanand vide Criminal Miscellaneous Application no. 637/2023. As above subjected drugs products were sampled from your premise were declared not of standard quality by Test report of Government analyst, Food and Drugs Laboratories, Vadodara and accordingly you were asked to Stop Sale & Recall for the said samples via this office letters dated 5/9 / 2023 As the reports were not accepted by you an application for the sample retesting was filed was filed before Hon. Addl. Chief Judicial Magistrate Court, Sanand vide Criminal miscellaneous application no. 637/2023 In this regard sample were sent for the retesting at Pharmacopoeia Commission for Indian

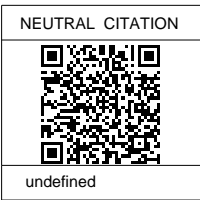


Medicine & Homeopathy (Central Drugs Laboratories) Ghaziabad via court. Said samples were declared of standard quality by central drugs laboratory in Form 2A. Xerox of Court Certified copy of said Form 2A test report are attached herewith for your information. Kindly note that as the Central Drugs Laboratory has declared said samples as of Standard Quality, the previous order/communication of this office dated 5/9 / 2023 related to stop sale & recall of subjected drugs stands revoked.”

(3) Considering the above, I am inclined to grant the bail to the petitioner.

6. 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.

7. 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]***.



8. In the result, the present petition is allowed by directing that in the event of petitioner herein being arrested pursuant to FIR registered as **C.R.No.11193004230654 of 2023 registered with Amreli Rural Police Station, Amreli**, the petitioner shall be released on bail on furnishing a personal bond of Rs. 10,000/- (Rupees Ten Thousand only) each with one surety of like amount on the following conditions that the petitioner:-

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

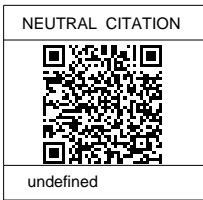
(b) shall remain present at concerned Police Station on **01.05.2024 and 02.05.2024** between 10.00 a.m. and 4.00 p.m.;

(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 them 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;



9. 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)