

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO.
9050 of 2024**

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SHYAMSUNDER NANDKISHOR RATHI

Versus

STATE OF GUJARAT

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Appearance:

MR. SURAJ A SHUKLA(7185) for the Applicant(s) No. 1

MR. UTKARSH SHARMA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE PRANAV TRIVEDI

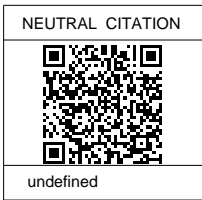
Date : 20/05/2024

ORAL ORDER

[1] **RULE.** Learned Additional Public Prosecutor waives service of notice of rule on behalf of the respondent-State.

[2] By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant original accused has prayed to release him on anticipatory bail in case of his arrest in connection with the FIR registered as I-C.R No.11210060240681 of 2024 before Varachha Police Station, District: Surat for the offences punishable under Section 408 of Indian Penal Code.

[3] Learned advocate appearing for the applicant has submitted that applicant is an innocent person and the goods were sold to the firm, namely, Rama Creation, which belongs to

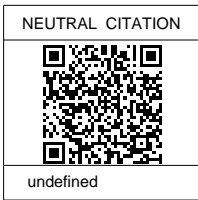


the complainant himself and the goods were sold at the instance of the complainant to various other parties for which the payment was received by way of cheque. It is further submitted that the allegations levelled in the present FIR is vague in nature and without any substance and if allegation as alleged then the appropriate remedy is to file a civil litigation. It is also submitted that the applicant is only earning member in the family and the FIR is misconception and with *mala fide* intention. Learned advocate for the applicant submits that considering the nature of allegations, role attributed to the applicant, the applicant may be enlarged on anticipatory bail by imposing suitable conditions.

[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.

[5] Heard the learned Advocates for the respective parties and perused the papers. From bare perusal, it clearly transpires that applicant was working as manager with 'Rama Creation' and issue involves monetary aspects of payments

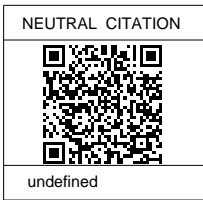
[6] Having heard the learned advocate appearing for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused, without discussing the evidence in detail, at this stage, I am inclined to grant anticipatory bail to



the applicant. 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 6941**, 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.**, as reported at **(1980) 2 SCC 665**.

[7] In the result, the present application is allowed by directing that in the event of applicant herein being arrested pursuant to FIR registered as I-C.R No.11210060240681 of 2024 before Varachha Police Station, District: Surat for the offences punishable under Section 408 of Indian Penal Code the applicant 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 applicant shall :

- (a) cooperate with the investigation and make available for interrogation whenever required;
- (b) remain present at concerned Police Station on **24.05.2024** between 11.00 a.m. and 2.00 p.m.;
- (c) not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade from disclosing such facts to the court or to any police officer;
- (d) 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) 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; and
- (f) not leave India without the permission of the Court and if having passport shall deposit the same before the Trial Court within a week;

[8] At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the applicant on bail.

[9] Rule is made absolute. Application is disposed of accordingly. Direct service is permitted.

(PRANAV TRIVEDI, J.)

DHARMENDRA KUMAR