



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

**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO.  
9158 of 2024**

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NIRUBEN DINKARBHAI GAVALI

*Versus*

STATE OF GUJARAT

=====

**Appearance:**

MR. ASHOK A PUROHIT(6267) 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 : 23/05/2024**

**ORAL ORDER**

[1] By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant has prayed to release her on anticipatory bail in case of his arrest in connection with the FIR registered as ***C.R.No. 11198006240458 of 2024 with Ghogha Road Police Station, Bhavnagar*** for the offences alleged under Sections 376(1), 2(n) and 114 of IPC.

[2] 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.

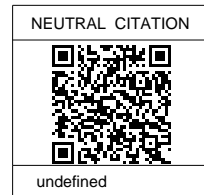
[3.] Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of anticipatory bail looking to the nature and gravity of the offence.



[4] Having heard the learned advocate for the parties and perusing the investigation papers. At the outset, appropriate would be to look into the basic principles as laid down by the Hon'ble Supreme Court to guide grant of bail. In the case of ***Prasanta Kumar Sarkar Vs. Ashis Chatterjee & Anr.*** reported in **(2010) 14 SCC 496**, the relevant principles laid down are reproduced as under :

*“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.”*

At the same time, the Courts have been cautioned that 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.



[5] I have considered the following aspects:-

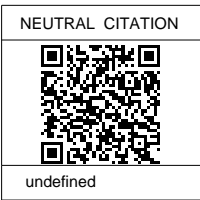
*[a] That no allegation of Section 376 has been made against the present applicant;*

*[b] The only role attributed to the present applicant is that the accused no.1 along with the complainant had visited the house of the accused when the present applicant being the mother of the accused no.1 was present and the complainant was introduced to the present applicant, hence the present applicant was aware about the relationship of the complainant with the accused no.1, who under the pretext of marriage has committed offence of rape;*

*[c] He has placed on record the affidavit of the Investigating Officer, which was placed for consideration before the Trial Court.*

[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 applicant.

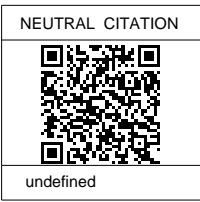
[7] This Court while exercising discretion in favour of the applicant has also taken into consideration law laid down by the



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 application is allowed by directing that in the event of applicant herein being arrested pursuant to FIR registered as ***C.R.No.11198006240458 of 2024 with Ghogha Road Police Station, Bhavnagar***, 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 :

- (a) shall cooperate with the investigation and make herself available for interrogation whenever required;
- (b) shall remain present at concerned Police Station on **30.05.2024** between 11.00 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 her 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 Trial Court within a week; and

[9] In case of breach of any of the above conditions is if committed by the applicant, 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 applicant on bail.

***Direct service is permitted.***

DHARMENDRA KUMAR

**(PRANAV TRIVEDI, J.)**