

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR TRANSIT BAIL) NO. 9366 of 2024**

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GULWANI JITENDRA MULCHANDBHAI &amp; ORS.

Versus

STATE OF GUJARAT &amp; ANR.

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Appearance:

MR. BAKUL S PANCHAL(3676) for the Applicant(s) No. 1,2,3,4

MS MANSI S PANCHAL(12033) for the Applicant(s) No. 1,2,3,4

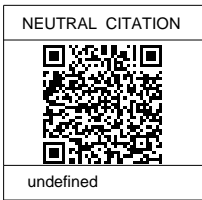
for the Respondent(s) No. 2

MR. H.K. PATEL, APP for the Respondent(s) No. 1

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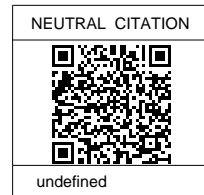
**CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 14/05/2024****ORAL ORDER**

1. Heard learned advocate Mr. Bakul S. Panchal for the applicants and learned Additional Public Prosecutor Mr. H.K. Patel appearing for the respondent-State.
2. **Rule.** Learned APP waives service of notice of rule on behalf of the respondent-State.
3. By way of this application under Section 438 of the Code of Criminal Procedure, 1973, the applicants pray for being released on transit anticipatory bail in connection with FIR bearing No.0100 of 2024 registered with Girwai Police Station, District Gwalior, Madhya Pradesh for the offences punishable under sections 376-D, 354(C),



377, 328 and 384 of the Indian Penal Code.

4. Learned advocate Mr. Bakul S. Panchal for the applicants, at the outset, submits that original complainant in the present case has falsely implicated the present applicants in order to coerce/compel the applicants to step back as witnesses in the criminal case filed against the original complainant. The allegations made against the applicants are unfounded and without merit. It is further submitted that inclusion of names of the present applicants in the FIR is an act of malice and an attempt is made to obstruct justice. The applicants have no involvement in the alleged offence and are merely being targeted due to their status as witnesses in another case which is filed against the original complainant. The reliance was placed on the FIR No.11191040240, dated 24.03.2024 registered with the Sardar Nagar Police Station for the offence alleged under Sections 328, 384, 114, 506(2) of IPC. It was submitted that the said FIR was registered by the present applicant no.4-Kavit Jitendrabhai Gunvani against three accused namely (1) Poojaben Rajeshbhai Dawar (2) Manju Ahuja and (3) Rajeshbhai Dawar. While referring to the order dated 29.03.2024 enlarging the aforesaid accused on bail, it was submitted that the present FIR was subsequently lodged as a counterblast almost after period one year of incident alleged during period 23.03.2023 to

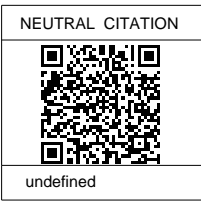


08.01.2024. By making aforesaid submissions, learned advocate has urged that the present applicants may be protected till they file the appropriate application before the appropriate Court.

5. Learned APP Mr. H.K. Patel appearing for the respondent-State has objected the submissions made by learned advocate for the applicants and urged this Court to dismiss the present application.

6. I have heard the learned advocate appearing for the applicants. It could be noticed that the applicants are resident of Ahmedabad City and are facing FIR which is registered at Girwai Police Station, District-Gwalior, Madhya Pradesh. The apprehension expressed by the applicants is evident from the bare perusal of the FIR wherein they are arraigned as original accused. Rejection of the plea for limited/transitory anticipatory bail solely with reference to the concept of territorial jurisdiction may result into miscarriage of justice and aggravate the adversity of the accused, who are apprehending arrest. Considering the averments made in the application, this application deserves to be allowed and hence, the following order is passed:

**“The applicants shall not be arrested for a period of 7 days in connection with FIR registered as FIR bearing No.0100 of 2024 registered with Girwai Police Station,**



**District Gwalior, Madhya Pradesh for the offences punishable under sections 376-D, 354(C), 377, 328 and 384 of the Indian Penal Code** and the applicants may approach the Competent Court with territorial jurisdiction for the purpose of obtaining anticipatory bail in connection with the aforesaid offence.

7. It is made clear that if the applicants fail to apply for anticipatory bail and do not approach the Court of competent jurisdiction, upon expiry of 7 days, the transit bail granted by this Court shall stand automatically cancelled. Rule is made absolute to the aforesaid extent. Direct service is permitted.

SUYASH SRIVASTAVA

**(NISHA M. THAKORE,J)**