

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 9625
of 2024**

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MITESHBHAI @ MITULBHAI JANAKBHAI JOSHI & ANR.
Versus
STATE OF GUJARAT

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Appearance:

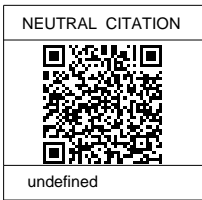
MS POONAM M MAHETA(11265) for the Applicant(s) No. 1,2
MS KRINA CALLA APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE PRANAV TRIVEDI**Date : 24/05/2024****ORAL ORDER**

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

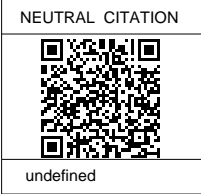
[2] By way of the present application under
Section 438 of the Code of Criminal Procedure,
1973, the applicants original accused nos.1 and 2
has prayed to release him on anticipatory bail in
case of his arrest in connection with the FIR
No.11193008240201 of 2024 before Babra Police
Station, District: Amreli for the offences



punishable under Section 409 and 34 of Indian Penal Code.

[3] Learned advocate appearing for the applicants has submitted that no offence has been made out as mentioned in the complaint and no ingredients of sections, which are applied in the complaint are satisfied qua the allegations made against the present applicants. It is submitted that there is huge, unexplained delay of seven years in lodgment of complaint by the original complainant, and the dispute is of civil in nature. Learned advocate for the applicant submits that considering the nature of allegations, role attributed to the applicants, the applicants may be enlarged on anticipatory bail by imposing suitable conditions.

[4] Per contra, learned advocate Mr. Kishan Dave for Mr. Dhruvin Bhuptani for the complainant vehemently opposed the present application for grant of anticipatory bail and submitted that the



goods, which are retained by the present applicants were never purchased by the applicants being Sarpanch. The applicant no.1 being Sarpanch has misused her power and authority granted to her, and applicant no.2 being the husnace of applicant no.1 has supported the misdeed of applicant No.1.

[4.1] Learned APP appearing for the respondent No.1 - State submitted that looking to the nature and gravity of the offence, this Court may not exercise the discretion in favour of the applicants and the application may be dismissed.

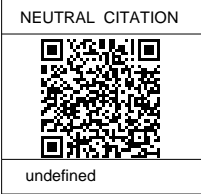
[5] Heard the learned Advocates for the respective parties and perused the papers. It appears that in the earlier point of time there is *inter se* rivalry between the applicants and the complainant. Earlier also an First Information Report was registered against the husband of the complainant, wherein some of the relatives of present applicants were victims.



Even for the alleged offence, there is dispute with regard to the purchase of the goods, which were retained or purchased by the applicants.

[6] Having heard the learned advocate appearing for the parties and perused 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 applicants. 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 applicants herein being arrested pursuant to FIR No.11193008240201 of 2024 before Babra Police Station, District: Amreli for the offences punishable under Section 409 and 34 of Indian Penal Code the applicants 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 each on the following conditions that the applicants shall:

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

(b) remain present at concerned Police Station on 03.06.2024 between 11.00 a.m. and 2.00 p.m.;

(c) not directly or indirectly make any inducement, threat or promise to any



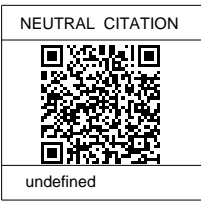
person acquainted with the fact of the case so as to dissuade from disclosing such facts to the court or to any police officer;

(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 applicants on bail.

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

Pankaj

(PRANAV TRIVEDI,J)