IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC. APPLICATION (FOR ANTICIPATORY BAIL) NO. 26433 of 2025
With
R/CRIMINAL MISC. APPLICATION NO. 3962 of 2026
With
R/CRIMINAL MISC. APPLICATION NO. 3715 of 2026

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UPENDRA BHAGWANJI KASUNDRA
Versus
STATE OF GUJARAT

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Appearance:
MR DIPEN K DAVE(3296) for the Applicant(s) No. 1
MR ROHAN SHAH, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 24/03/2026

ORAL ORDER

1. As all these matters arise out of the common FIR, the same are heard together and being decided by this common order.

2. *Rule*. Learned advocates for the respective respondents waive.

3. By these applications under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short, "BNSS"*), the applicants

have prayed for anticipatory bail in the event of arrest in connection with the FIR being C.R. No. 11189003251588 of 2025, registered with Morbi City 'A' Division Police Station, District: Morbi for the offences punishable under Sections 420, 465, 467, 468, 471, 114, 120 and 34 of the Indian Penal Code, 1860 (IPC).

4. Filtered details of the prosecution case are that original accused Nos. 1 and 2, who are the father and son respectively, by hatching conspiracy, winning trust of the *de facto* complainant, got the sale deed executed of the land belonging to the *de facto* complainant allegedly when the *de facto* complainant was under influence of alcohol and thereafter, got credited the sale consideration without knowledge of the *de facto* complainant in his bank account and in connivance with the bank Manager and bank employee, the co-accused got the cheque book of the *de facto* complainant and allegedly by forging signature of the *de facto* complainant, used his bank account and the original accused No. 3 got transferred Rs.1,14,00,000/- from his account. Thus, on these facts, FIR in question came to be registered.

5. Heard, the learned advocates for the respective parties.

5.1 The learned advocates for the respective applicants have submitted that;

a) the applicants are innocent and falsely implicated in

the crime in question;

b) that, for the transaction of 2022, substantive FIR is lodged in the year 2025 only;

c) that, initially the complainant had filed a complaint and after due inquiry and investigation, the same came to be closed *vide* Police Report dated 19.06.2023 having found no substance in the same;

d) that, the complainant's version suffers from material contradictions and deliberate suppression inasmuch as, the complainant has not stated that in FIR that allegedly, in an inebriated condition, he was first taken to Advocate's office and then, to the Sub-registrar's office, which was his case in the representation filed by him on 15.04.2025 before the Investigation Officer (IO);

e) the original accused No. 1 is enlarged on regular bail;

f) the original accused No. 2, who is son of original accused No. 1 is granted anticipatory bail by the Sessions Court;

g) so far as applicant in Criminal Misc. Application No. 26433 of 2025 – original accused No. 3 is concerned, it is

stated that FSL Report dated 06.08.2025 does not disclose commission of any offence by the applicant inasmuch as sample signatures do not match with the disputed signatures;

h) so far as Criminal Misc. Application No. 3962 of 2026 is concerned, it is submitted that the applicant, who is original accused No. 4, was working as a Bank Manager at the relevant time and has no role in the crime in question and that, no any overt act committed in the alleged crime inasmuch as, the cheque books were issued by the Accountant of the bank. Further, it is the Accountant only who verifies the signature and the applicant, as a Branch Manager has to endorse the RTGS Form. It is further stated that the applicant is not, in any way, beneficiary of the disputed transaction;

i) so far as Criminal Misc. Application No. 3715 of 2026 is concerned, it is stated that applicant, who is original accused No. 5, is a Hotel Staff in the Hotel owned by the original accused No. 3 and accused No. 1. It is stated that as an employee, following instructions of his master *i.e.* accused No. 1, in good faith, he had gone to fetch the cheque book from the bank and except that, nothing is attributable to the present applicant as this applicant is also not a beneficiary of the disputed transaction;

5.2 Learned advocates for the applicants submit that the nature of allegations are such that custodial interrogation at this stage is not necessary. It is further submitted that the applicants will keep themselves available during the course of investigation and trial also and will not flee from justice.

5.3 The learned advocates for the applicants further state that the applicants shall abide by all the conditions that may be imposed while granting anticipatory bail to the applicants. Accordingly, it is urged that this application may be allowed and to grant the anticipatory bail to the applicants.

6. As against this, the 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 and requested not to entertain this application.

6.1 The learned advocate for the *de facto* complainant also vehemently opposing grant of anticipatory bail to the present applicants, submitted that the applicants – accused, in connivance with each other, has committed the crime in question in which, while the stake amount is huge, the property of the *de facto* complainant is also at stake. The learned advocate submitted that taking disadvantage of the situation *i.e.* the *de facto* complainant being under influence of alcohol, the applicants herein, outplayed the *de facto* complainant and got him entered into the disputed

transaction and also used his cheque book and the account. Accordingly, it is urged that these being applications for anticipatory bail, considering the nature and gravity of offence, may not be entertained.

7. Having heard the learned advocates appearing for the parties and perusing the papers available on record, it is incumbent upon the Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in plethora of decisions of the 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) the nature and gravity of the accusation; (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence; (iii) the possibility of the applicant to flee from justice; and (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested. Though at the stage of granting bail an elaborate examination of evidence and detailed reasons touching the merits of the case, which may prejudice the case of accused, should be avoided. However, following aspects have been taken into consideration:

a) *prima facie*, the transaction in question appears to be civil in nature;

b) the transaction is question is of 2022 for which, substantive FIR is filed in the year 2025;

c) earlier application of the *de facto* complainant came to be closed on 19.06.2023 as no offence, as alleged, was made out after due inquiry and investigation by the police;

d) for the disputed sale deed, civil suit is filed by the *de facto* complainant, which is pending before the competent Court;

e) so far as applicant in Criminal Misc. Application No. 3962 of 2025, original accused No. 4 is concerned, he was the Branch Manager of the Bank and his role was to endorse the RTGS Form and so-called cheque books are also stated to have been issued by the Accountant only and thus, no *prima facie* no direct/overt act appears to have been committed by him in the crime in question;

f) so far as applicant in Criminal Misc. Application No. 3715 of 2026, original accused No. 5 is concerned, his role is to fetch the cheque book from the bank only at the instance of the accused No. 1;

g) original accused No. 2 – Vishwas Kanaiyalal Detroja, is granted Anticipatory Bail by the learned Additional Sessions Judge *vide* order dated 10.10.2025;

h) original accused No. 1 – Kanaiyalal Sundarjibhai Detroja, who appears to have greater role than the present applicants before this Court, is granted regular bail by the coordinate Bench *vide* order dated 02.02.2026 passed in Criminal Misc. Application No. 26887 of 2025, wherein, the observations made by the coordinate Bench are relevant and hence, are extracted as under:

> *"6. I have heard learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered:-*

(i) At the outset, it requires to be observed that the allegation in the FIR is for an offence, which has been committed from 17.10.2022 to 27.11.2022, whereas the FIR has been registered on 28.08.2025. It would appear in this regard that while the FIR appears to have been registered upon the direction of a learned Magistrate in Criminal Inquiry No.163/2023 at the instance of the complainant, yet it would appear that there are certain gaps, which have raised a question as regards the bona fide of the complainant himself.

(ii) It would appear in this regard that the FIR inter alia states about the complainant having a parcel of land in Mehsana District and ***whereas the applicant and his son having approached the complainant, who also appears happens to be near relative and was staying at Morbi, for purchase of the land in question****.*

(iii) The allegation being that the complainant was brought to Ahmedabad and whereas the complainant was made to stay at the residence of the applicant and he was made to consume liquor and he was taken to the office of the Sub-Registrar under the influence of liquor and whereas he did have any clue as to what he was to doing when he had registered the land in favour of the applicant herein or his son.

(iv) The complaint further states that the applicant and his son had thereafter by obtaining cheques of the bank account of the present complainant, siphoned off the consideration amount coming to Rs.1,14,00,000/- approximately, more particularly the amount having been deposited in the account of the applicant and / or his son and / or certain firms, which belong to the applicant or his son. ***The transactions happening from 17.10.2022 to 27.11.2022****.*

(v) It would appear in this regard that since the investigation did not reveal anything as regards the status of the complainant when he had gone to the office of the Sub-

Registrar for registration of the sale deed, this Court had called upon the learned APP to instruct the Investigating Officer to take appropriate instructions in this regard and whereas the statement dated 08.01.2025 of the then Sub-Registrar, Kalol, is tendered before this Court and whereas it appears that the Sub-Registrar clearly submits that while, as a general rule, ***any person coming to have sale deed executed is asked by the Sub-Registrar as regards his state of mind whether he is entering into the transaction out of his free will etc. and it is only upon appropriate satisfaction as regards the voluntary nature of the transactions does the Registrar permit the documentation****. It also appears that the Sub-Registrar had asked the various questions to the seller of the property i.e. the complainant herein and based upon that,* ***the Registrar had come to a conclusion that the complainant was in normal state of mind, both mentally and physically, and that he did not appear to be intoxicated at all****.*

(vi) It also appears that the Investigating Officer has obtained a copy of the CCTV footage, when the sale deed had taken place and whereas a perusal of the CCTV footage also very clearly reveals that the complainant does appear to be intoxicated or under any influence at all.

(vii) It also appears that the second part of the allegation is with regard to the consideration amount, having been siphoned off by the present applicant and his son and whereas it appears that the cheques were issued whereby the amounts were transferred from 17.10.2022 to 27.11.2022. It would appear in this regard that the first complaint was made by the present applicant on 06.12.2022 i.e. after more than a period of two months from the date the first cheque had been encashed. ***Most importantly, it appears that the present complainant had an SMS facility on his mobile phone, whereby upon any cheque being deposited in his account for either credit / debit, the bank would immediately send an SMS to the***

complainant.

(viii) It thus, prima facie appears that there is something more to the transaction than meets the eye, inasmuch as the ***FIR itself appears to be questionable as the first part of the FIR prima facie appears to be exaggerated as it does not appear that the complainant, when he had gone to register the property, was intoxicated or under influence of any substance of such nature****. As far as the second part is concerned as noticed hereinabove, though the applicant was intimated real time about money being withdrawn from his account, yet from 17.10.2022 to 27.11.2022, the complainant waited till 06.12.2022 to file his first application. Considering the above, to this Court, it would appear that while there may be some part of the transactions, which may be questionable as far as the applicant is concerned, yet overall, the entire FIR appears to have some very serious anomalies, benefit of which would accrue in favour of the applicant.*

(ix) An important issue raised in this regard by the learned advocate Mr. Abichandani for the complainant being that the credentials of the applicant himself may be appreciated inasmuch as the applicant, though was detained by the officer of Vadodara police, yet the applicant had managed to abscond from the police station and whereas under such circumstances, no discretion may be exercised in favour of the present applicant.

To this Court it would appear that while it is alleged that applicant had absconded, while he was in custody, yet it also does not appear that the applicant except for the present FIR was wanted in any other case. It has also been pointed out to this Court that at the relevant point of time, anticipatory bail application of the present applicant was pending and upon anticipatory bail application being withdrawn, the applicant had either surrendered or had been arrested by the police authority. Having regard to such a position, to this Court, it would not appear that the present applicant having come out

from the detention of police official would have any bearing on the present application.

(x) It also appears that the applicant is a retired employee of the State Government / State Undertaking and except for two antecedents under the Prevention of Corruption Act, does not have any other antecedents."

(emphasis added)

i) in the decision in case of ***Ashok Kumar v. State of Union Terrotory Chandigarh, rendered by the Apex Court in Special Leave Petition (Crl.) No. 9949 of 2023 dated 01.03.2024***, in para 12, it is observed by the Apex Court that, "*There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient.* ***The State have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation***". In the case on hand, nothing such a sort, more particularly, considering the role of the present applicant;

j) the learned advocates for the applicants have assured that the applicants will not flee from justice and would be available during investigation as well as the trial.

8. Considering the aforesaid aspects and the law laid down by the Hon'ble Apex Court in the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra and Others,*** *reported in* ***(2011) 1 SCC 6941***, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of ***Shri Gurubaksh Singh Sibbia & Others,*** *reported in* ***(1980) 2 SCC 665*** and also the

decision in the case of ***Sushila Aggarwal v. State (NCT of Delhi),*** *reported in* ***(2020) 5 SCC 1***, the Court is inclined to allow the present applications.

9. In the result, the applications are allowed by directing that in the event of arrest/ appearance of the applicants in connection with the above-referred FIR, the applicants shall be released on bail on furnishing a personal bond of **Rs.10,000/- (Rupees Ten Thousand) each** with one surety of like amount **each** on the following conditions that applicants:

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

(b) 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 him from disclosing such facts to the court or to any police officer;

(c) 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;

(d) shall remain present at the concerned Police Station on **02.04.2026** between 11.00 a.m. and 2.00 p.m.;

(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 Court and if having passport shall deposit the same before the trial Court within a week;

(g) It is open to the police or the investigating agency to move the learned trial Court for a direction under Section 483(2) of the BNSS to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc.

9.1 At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while considering the bail application.

10. It is made clear that this order of anticipatory bail does not in any manner limit or restrict the rights or duties of the police or investigative agency to investigate into the charges against the applicants who are granted pre-arrest bail.

11. Rule is made absolute to the aforesaid extent. **Direct service** is permitted.

[P. M. Raval, J.]

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: HIREN VIRENDRABHAI MER(HC00351), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 24/03/2026 11:23:10