

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC. APPLICATION NO. 3254 of 2022

=====

MANDANI MANAJIBHAI AMBABHAI

Versus

STATE OF GUJARAT

=====

Appearance:

MR RAJESH O GIDIYA(5222) for the Applicant(s) No. 1

MR GAJENDRA P BAGHEL(2968) for the Respondent(s) No. 1

MS CM SHAH APP for the Respondent(s) No. 1

=====

**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK**

Date : 21/12/2022

ORAL ORDER

1. This is an application filed by the applicant under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail in the event of his arrest in connection with **FIR No. 11210008220151 of 2022 registered before the Sarthana Police Station, Surat City** for the offence punishable under Sections 376(2)(n), 450, 508 etc. of Indian Penal Code and Section 66(e) of the Information Technology Act, 2000.

2. Learned Counsel for the applicant submits that the there is no direct evidence which implicate the present

applicant in the alleged offence. He further submitted that the FIR has been lodged after delay of almost two years. He submitted that both the children of the complainant are major and it is not possible to the applicant to visit the house of the complainant. He further submitted that since there is a land dispute between the applicant and the husband of the complainant, the complainant has filed present FIR so as to pressurize the applicant.

3. Learned Counsel for the applicant has relied upon the decision of the Hon'ble Apex Court in case of ***Abhishek Kumar vs. State of Delhi reported in (2022) 6 SCC 399*** and submitted that present application may be allowed in view of the aforesaid decision of the Hon'ble Apex Court and the applicant may be released on anticipatory bail.

4. On the other hand, the Ms. C.M. Shah, learned APP appearing for the respondent-State has opposed this application and granting anticipatory bail to the applicant. She has submitted that looking to the nature and gravity/seriousness of the offence committed by present applicant, present application may not be entertained and the same may be rejected.

5. I have heard learned Counsel Mr. Rajesh O. Gidiya

for the applicant and learned APP Ms. C.M. Shah for the respondent State of Gujarat. I have also perused the material available on record as well as the order passed by the learned Trial Court rejecting the anticipatory bail of present applicant.

6. It appears from the record that the offence registered against present applicant is very serious in nature. On perusal of the F.I.R. it also seems that the allegations levelled against present applicant is serious in nature and from that allegations, *prima facie*, the involvement of the applicant in present offence is established. Further, the decision of the Hon'ble Apex Court in case of **Abhishek Kumar (supra)** relied upon by the applicant is established different facts and circumstances which are not applicable to present case. Therefore, the said decision of the Hon'ble Apex Court is not helpful to learned Counsel for the applicant.

7. Further, in present situation sexual crimes against the women and girls are increased day by day which is alarming position. It also appears from the record that the complainant was threatened by the present applicant for not filing complaint anywhere and anyone. If the applicant is released on anticipatory bail, the possibility of threatening the complainant cannot be ruled out. Further, in present case custodial interrogation of the

applicant is necessary.

8. Therefore, on overall aspects of the present case and in view of the aforesaid discussion, I am of the opinion that present application does not deserve to be entertained and the same is required to be dismissed. Hence, present application is hereby dismissed. Rule is discharged. *Ad-interim relief / interim relief*, if any, stands vacated forthwith.

SURESH SOLANKI

(HEMANT M. PRACHCHHAK,J)