

Rakeshbhai Natvarlal Patel vs State Of Gujarat on 13 February, 2025

R/CR.MA/3167/2025

ORDER DAT

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO.
3167 of 2025

RAKESHBHAI NATVARLAL PATEL
Versus
STATE OF GUJARAT

Appearance:

MR SN BAROT(5299) for the Applicant(s) No. 1
MS SAPNA S BAROT(6693) for the Applicant(s) No. 1
MR KRUTIK PARIKH, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 13/02/2025
ORAL ORDER

RULE. Learned APP waives service of notice of Rule for and on behalf of the respondent No.1 - State of Gujarat.

[1.0] By way of the present application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"), the applicant accused has prayed to release him on anticipatory bail in the event of his arrest in connection with the FIR being C.R. No.11216011250008 of 2025 registered with Infocity Police Station, District Gandhinagar for the offences punishable under Sections 328, 388 and 120(B) of the Indian Penal Code, 1860.

[2.0] Learned advocate for the applicant submits that the applicant has nothing to do with the offence and has been falsely enroped in the offence. The alleged offence took place during the period 2018 to 2019 and the FIR is filed recently in the year 2025 and therefore, based on the ground of delay, learned advocate for the applicant has tried to point out the frivolity of the FIR. As per the complaint, NEUTRAL CITATION R/CR.MA/3167/2025 ORDER DATED: 13/02/2025 undefined allegation against the applicant is that the applicant and other co- accused in conspiracy with each

other made the complainant to consume intoxicating substance in tea and thereafter took nude photographs of the complainant with some unknown lady and based on such nude photographs, accused persons blackmailed the complainant and extorted Rs.58 lakh and also made him to execute sale deed of on residential house situated at Sector 19 in the name of present applicant. Further, the applicant is not having any past antecedent and is ready and willing to join the investigation and hence, now nothing remains to be recovered or discovered from the present applicant and therefore, custodial interrogation at this stage is not necessary. Besides, the applicant is available during the course of investigation and will not flee from justice. In view of the above, the applicant may be granted anticipatory bail.

[3.0] Learned Additional Public Prosecutor appearing on behalf of the respondent - State has opposed grant of anticipatory bail on the ground that the accused persons have extorted huge amount of Rs.58 lakh by blackmailing the complainant to viral the nude pics of the complainant with some unknown lady and even after payment of such a huge amount, still the accused are blackmailing the complainant to extort more money and even the unknown lady is yet to be identified and hence, as custodial interrogation of the applicant is required, he has requested to dismiss the present application.

[4.0] Having heard the learned advocate for the parties and perusing the investigation papers, 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 NEUTRAL CITATION R/CR.MA/3167/2025 ORDER DATED: 13/02/2025 undefined 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 merit of the case, which may prejudice the accused, should be avoided. I have considered the following aspects.

(1) Offence is not punishable with life imprisonment or death penalty;

(2) Alleged offence is of the period during May, 2018 to May, 2019 and present FIR is filed in the January, 2025 i.e. after a huge delay of more than six years;

(3) Allegation is that complainant was forced to execute the sale deed of residential house in favor of present applicant however perusing the sale deed it appears that complainant has executed the sale deed as power of attorney holder of his wife in favor of wife of present applicant which is executed in November, 2018 and thereafter no any proceeding is initiated and even the complaint is not filed;

(4) Even, the applicant is ready and willing to join the investigation.

[5.0] Considering the aforesaid aspects and the law laid down by the Hon'ble Apex Court in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors. reported in (2011) 1 SCC 6941, wherein the Hon'ble Apex Court reiterated the law laid down by the NEUTRAL CITATION R/CR.MA/3167/2025 ORDER DATED: 13/02/2025 undefined Constitution Bench in the case of Shri Gurubaksh Singh Sibbia & Ors. 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, I am inclined to allow the present application.

[6.0] In the result, the present application is allowed by directing that in the event of arrest / appearance of the applicant in connection with the FIR being C.R. No.11216011250008 of 2025 registered with Infocity Police Station, District Gandhinagar, 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 applicant :

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

(b) shall remain present at the concerned Police Station on 20/02/2025 between 11.00 a.m. and 2.00 p.m. and the IO shall ensure that no unnecessary harassment or inconvenience is caused to the applicant;

(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 him 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 his 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;

NEUTRAL CITATION R/CR.MA/3167/2025 ORDER DATED: 13/02/2025 undefined

(g) an 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 applicant;

(h) 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.-

[7.0] 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.

[8.0] Rule is made absolute to the aforesaid extent. Application is disposed of accordingly. Direct service is permitted.

(HASMUKH D. SUTHAR, J.) Ajay