

Tinaben @ Dakshaben Virubhai Joshi vs State Of Gujarat on 21 March, 2025

R/CR.MA/22477/2024

ORDER DATED: 21

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 22477
of 2024
With
CRIMINAL MISC.APPLICATION (FOR VACATING INTERIM RELIEF) NO.
1 of 2024
In R/CRIMINAL MISC.APPLICATION NO. 22477 of 2024

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TINABEN @ DAKSHABEN VIRUBHAI JOSHI
Versus
STATE OF GUJARAT

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Appearance:

MS JAYSHREE C BHATT(170) for the Applicant(s) No. 1
MR N P CHAUDHARY(3980) for the Respondent(s) No. 1
MR HARDIK MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 21/03/2025

ORAL ORDER

[1.0] RULE. Learned APP waives service of rule for the respondent- State.

[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 her on anticipatory bail in the event of her arrest in connection with the FIR being CR No.11195050240809/2024 registered with Tharad Police Station, Banaskantha for the offences punishable under Sections 115(2), 140(3), 351(2), 296(b) and 54 of the BNS.

[2.0] Learned advocate for the applicant submits that the applicant has nothing to do with the offence and the applicant has been falsely implicated in the offence. Applicant is a lady. The alleged incident took place in connection with the another offence being FIR being CR

No.11195050240810/2024 registered with Tharad Police Station, Banaskantha, wherein the applicant has lended the money to the NEUTRAL CITATION R/CR.MA/22477/2024 ORDER DATED: 21/03/2025 undefined father of the complainant to recover the same, she went to his house. It is alleged that she has tried to abducted him and threatened to kill him. In this regard complaint is filed. Applicant is having no past antecedents and therefore, no custodial interrogation of present applicant is required. 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.

[2.1] Learned advocate for the applicant has submitted an undertaking filed by the applicant before this Court, stating that she will not claim any borrowed money given by her to the father of the original complainant. She further undertakes that she will never ask him to return the money and will not claim the said amount, as per the prosecution's case.

[3.0] Learned Additional Public Prosecutor appearing on behalf of the respondent - State and learned advocate appearing on behalf of the original Complainant have opposed grant of anticipatory bail looking to the nature and gravity of the offence. It is submitted that the present applicant is a head strong person and named in the FIR. At her instance, the alleged incident took place as father of the complainant has borrowed the money from the accused No.1. Though it was already paid, with a view to recover the money and to extort more money, she reached their house. She has tried to abducted the father of the complainant in their car. Further, if the applicant is granted anticipatory bail then the possibility of tampering with the evidence and witnesses cannot be ruled out and there is a chance of breach of NEUTRAL CITATION R/CR.MA/22477/2024 ORDER DATED: 21/03/2025 undefined public tranquility. Hence, as custodial interrogation of the applicant is required, he has requested to dismiss the present application.

[5.0] Having heard the learned advocate for the respective 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 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 her 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)one complaint being CR No.11195050240810/2024 registered with Tharad Police Station, Banaskantha, is registered;

(2) applicant is a lady;

(3) nothing is required to be recovered from her; no custodial interrogation is required. (4) No antecedent is reported against the present applicant;

(5) she is ready and willing to join the investigation;

NEUTRAL CITATION R/CR.MA/22477/2024 ORDER DATED: 21/03/2025 undefined (6) earlier she is protected by the Co-ordinate Bench of this Court;

(7) cross complaint is filed by the present applicant against the original Complainant and no any injury is sustained to the applicant and learned advocate for the applicant has submitted an undertaking filed by the applicant before this Court, stating that she will not claim any borrowed money given by her to the father of the original complainant. She further undertakes that she will never ask him to return the money and will not claim the said amount, as per the prosecution's case.

Without further discussion on detail, the present application deserves consideration.

[6.0] 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 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.

[8.0] 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 CR No.11195050240809/2024 registered with Tharad Police Station, Banaskantha, 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 NEUTRAL CITATION R/CR.MA/22477/2024 ORDER DATED: 21/03/2025 undefined conditions that applicant :

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

(b) shall remain present at the concerned Police Station on 28/03/2025 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 her 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;

(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 person who seeks and is granted pre-arrest bail;

(h) It is open to the police or the investigating agency to move the learned trial Court for a direction under Section 483(2) 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.-

(i) not contact directly or indirectly with the victim or any other witnesses and applicant shall not recover or to NEUTRAL CITATION R/CR.MA/22477/2024 ORDER DATED: 21/03/2025 undefined make any attempt to recover the amount from the original Complainant/victim or her father and in case of breach of any conditions, the learned trial Court shall have the liberty to issue a warrant and cancel the bail granted to the applicant;

(j) not enter into Dudhva Village for a period of six months;

[9.0] 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.

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

[11.0] In view of disposal of the main matter, the connected application being Criminal Misc. Application No.1 of 2024 stands disposed of.

(HASMUKH D. SUTHAR,J) KUMAR ALOK