

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 4133
of 2024**

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JAYESH CHANDUBHAI SOJITRA
Versus
STATE OF GUJARAT

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Appearance:

APURVA K JANI(7057) for the Applicant(s) No. 1
MR JALDIP B TAILOR(11438) for the Applicant(s) No. 1
MR HK PATEL, PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI**Date : 01/03/2024****ORAL ORDER**

Rule. Learned APP waives service for the Respondent-State.

1. By way of the present petition under Section 438 of the Code of Criminal Procedure, 1973, the petitioner has prayed to release him on anticipatory bail in case of his arrest in connection with the FIR registered as C.R. No. 11197025240050 of 2024 with Karjan Police Station, District: Vadodara Rural, under Sections 323, 325, 504, 506(2), 143, 147, 148, 149 of the IPC

2. Learned Advocate, Mr. Jani, appearing for the petitioner submitted that apart from the offence under Section 506(2) of the IPC, all other offences are bailable. It was further submitted that, looking to the tenor of the FIR, the dispute suddenly took place, in a fit of rage, where, both the sides engaged into

altercation, where, the petitioner has also sustained three fractures in the rib. It was submitted that the petitioner is alleged to have inflicted blows with the wooden plank to one Karan, who is already discharged from the hospital. It was, therefore, submitted that considering the nature of allegations, role attributed to the petitioner, the petitioner may be enlarged on anticipatory bail by imposing suitable conditions.

3. Learned Additional Public Prosecutor appearing on behalf of the respondent-State produced on record the report of the concerned IO and opposed grant of anticipatory bail, submitting that the entire incident took place at the instance of the present petitioner and therefore, looking to the nature and gravity of the offence, this application be rejected.

4. Heard the learned Advocates for the respective parties and perused the papers.

5. 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 circumstances, the factors to be borne in mind while considering an application for bail are (i) whether there is any *prima facie* or reasonable ground to believe that the accused has committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused

absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail. 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, *prima facie*, considered the following aspects.

- (1) Apart from the offence under Section 506(2) of the IPC, all other offences are bailable;
- (2) *Prima facie*, from a perusal of the FIR, no ingredients of the offence under Section 506(2) of the IPC are made out;
- (3) The petitioner also has sustained three fracture injuries on his rib;
- (4) The petitioner, as per the FIR, is alleged to have inflicted injury to one Karan with wooden plank, who has already been discharged from the hospital;
- (5) There is nothing to be recovered or discovered from the petitioner;
- (6) The petitioner is the permanent resident of

the State of Gujarat and hence, there is no flight risk and he is also ready and willing to cooperate with the investigation;

6. Having heard the learned counsel for the parties and perusing 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 exercise discretion in favour of the petitioner.

7. This Court while exercising discretion in favour of the petitioner has taken into consideration the law laid down by the Apex Court in the case of '**Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors.**', reported in (2011) 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitutional Bench in the the case of '**Shri Gurubaksh Singh Sibia & Ors. Vs. State of Punjab**', reported in (1980) 2 SCC 665. This Court has also taken into consideration the law laid down in the case of '**Sushila Agarwal v/s. State (NCT of Delhi)**', reported in (2020) 5 SCC 1.

8. In the result, the present petition is **ALLOWED** by directing that in the event of applicant herein being arrested pursuant to FIR registered as C.R. No. 11197025240050 of 2024 with Karjan Police Station, District: Vadodara Rural, the petitioner 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 the petitioner :

- (a) shall cooperate with the investigation and make himself available for interrogation whenever required;
- (b) shall remain present at concerned Police Station on **13th & 14th March, 2024**, between 10.00 a.m. and 4.00 p.m.;
- (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 residence till the final disposal of the case till further orders;
- (f) shall not leave India without the permission of the concerned trial court and if having passport shall deposit the same before the concerned trial

court within a week;

(g) shall not enter within the limits of Bharuch and Vadodar districts for the next **three months**, except, for the purpose of marking presence and attending the proceedings of the Court in the cases pending against him;

9. If breach of any of the above conditions is committed by the petitioner, the concerned learned Judge will be free to take appropriate action in the matter. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions in accordance with law. At the time of trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while granting the petitioner on bail. Direct service is permitted. Rule is made absolute, accordingly.

(J. C. DOSHI,J)

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