IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 14779 of 2020

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JAGDISH @ JAGGUBHAI MEVALDAS THAWANI
Versus
STATE OF GUJARAT

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Appearance:
MR. SURAJ A SHUKLA(7185) for the Applicant(s) No. 1
MR HARDIK SONI, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE A.G.URAIZEE**

Date : 16/12/2020

ORAL ORDER

1. Rule. Learned Additional Public Prosecutor waives service of notice of rule on behalf of the respondent-State.

2. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant original accused has prayed to release him on anticipatory bail in case of his arrest in connection with the FIR registered as **C.R.No.11210055201267 of 2020** before **Salabatpura Police Station, Surat City** for the offences under Sections 406, 420, 120(B), 504 and 506(2) etc. of the Indian Penal Code.

3. Mr. Shukla, learned advocate for the applicant, submits that the applicant had not introduced Anil Sadhwani to the complainant. He further submits that there is no transaction between the complainant and Anil Sadhwani on account of intervention of the applicant. It is his further submission that the applicant had introduced the main accused to the trader at Surat and this trader at this juncture has grievance against the main accused. He further submits that the dispute is purely of civil in nature, which is given colour of the

criminal offence. He, therefore, submits that looking to the allegation and evidence, the applicant may be enlarged on anticipatory bail by imposing suitable conditions.

4. 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. He submits that the trader defrauded to the tune of huge amount. It is his submission that the trader had sold that goods to various persons at the instances of the present applicant. He submits that if the applicant is released on anticipatory bail, it is likely to hamper the investigation and he may not be enlarged on anticipatory bail

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

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 grant anticipatory bail to the applicant. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors**. as reported at **[2011] 1 SCC 6941**, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitutional Bench in the the case of **Shri Gurubaksh Singh Sibbia & Ors.**, as reported at **(1980) 2 SCC 665**.

7. In the result, the present application is allowed by directing that in the event of applicant herein being arrested pursuant to FIR registered as **C.R.No.11210055201267 of 2020** before **Salabatpura Police Station, Surat City,** 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 the applicant shall :

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

(b) remain present at concerned Police Station on **24.12.2020** between 11.00 a.m. and 2.00 p.m.;

(c) not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade from disclosing such facts to the court or to any police officer;

(d) 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) 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) not leave India without the permission of the Court and if having passport shall deposit the same before the Trial Court within a week; and

(g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide it on merits;

8. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the

accused to seek stay against an order of remand, if, ultimately, granted and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order. 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. Rule is made absolute. Application is disposed of accordingly.

9. Registry is directed to send the copy of the order through email or Fax to the concerned trial Court.

(A.G.URAIZEE, J)

NAIR SMITA V. / F.S.KAZI