IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 18096 of 2020

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CHIRAG BIPINBHAI SANGHAVI

Versus

STATE OF GUJARAT

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Appearance:
MR PREMAL S RACHH(3297) for the Applicant(s) No. 1
MR HARDIK SONI APP (2) for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE A.G.URAIZEE**

Date : 03/12/2020

ORAL ORDER

1. **RULE**. Mr. Soni, 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.-11202009201601 of 2020** before **City 'B' Division Police Station, Jamnagar** for the offences under Sections 13, 16, 17, 19, 23(1)(b), (c), (e) & (f) of the Securities Contract (Regulation) Act, 1956 and under sections 406, 420 etc. of the Indian Penal Code.

3. Heard Mr. Premal Rachh, learned advocate for the applicant and Mr. Hardik Soni, learned APP for the respondent-State.

4. Mr. Rachh, learned advocate for the applicant submits that the entire proceedings against the applicant are not maintainable in view of section 26 of the Securities Contract (Regulation) Act. He further submits that the initial similar to the name of the applicant are mentioned in a chit recovered from the main accused and on that basis the applicant is arraigned in the FIR. It is his further submission that co-accused Bharatbhai Somchand Haria original

accused No.8;; is released on anticipatory bail by a coordinate bench vide order dated 2.12.2020 passed in Criminal Misc. Application No.18094 of 2020. He, therefore, submits that looking to the nature of the allegations and evidence, the applicant may be enlarged on anticipatory bail by imposing suitable conditions.

5. Mr. Soni, learned APP has opposed this bail application. He submits that the name of the applicant is revealed in the chit recovered from the main accused person and it prima-facie emerges from the FIR that the applicant and other accused persons were indulging in dabba activities. It is his further submission that the investigation is still going on and if released, the applicant is likely to tamper with the evidence. He, therefore, urges that the applicant may not be enlarged on anticipatory bail. **However, he submits that if the Court is inclined to release the applicant on bail, reasons may not be assigned on the merits of the case.**

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 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.-11202009201601 of 2020** before **City 'B' Division Police Station, Jamnagar,** 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 **9th December, 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 a copy of the order through email or Fax to the concerned trial Court.

(A.G.URAIZEE, J)

NAIR SMITA V./zgs