IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 19840 of 2020

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VALLABHBHAI LALJIBHAI HIRPARA
Versus
STATE OF GUJARAT

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Appearance:
MR. RADHESH Y VYAS(7060) for the Applicant(s) No. 1,2
MR MANAN MEHTA, APP (2) for the Respondent(s) No. 1

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CORAM:**HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**

Date : 24/12/2020

ORAL ORDER

[1] Rule. Mr. Manan Mehta, learned APP waives service of notice of rule for and on behalf of respondent-State.

[2] I have heard Mr. Radhesh Vyas, learned counsel for the applicants and Mr. Manan Mehta, learned APP for the respondent-State by video conferencing.

[3] By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicants – original accused have prayed to release them on anticipatory bail in case of their arrest in connection with FIR No.11210060202435 of 2020 registered with Varachha Police Station for the offences punishable under Sections 406, 420, 506(2) and 114 of the IPC.

[4] It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated. It is further submitted that the applicants have no criminal antecedence. It is further submitted that dispute if any would be of a civil nature and if the complainant has any grievance may recover the amount in appropriate civil proceedings and not by lodging criminal

proceedings. He further submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. Besides, the applicants are available during the course of investigation and will not flee from justice. Learned advocate for the applicants on instructions states that the applicants are ready and willing to abide by all the conditions including imposition of conditions with regard to powers of Investigating Agency to file an application before the competent Court for his remand. He would further submit that upon filing of such application by the Investigating Agency, the right of applicants accused to oppose such application on merits may be kept open. In view of the above, the applicants may be granted anticipatory bail.

[5] Learned APP appearing on behalf of the State respondent has opposed grant of anticipatory bail looking to the nature and gravity of the offence.

[6] I have considered the allegations leveled against the present applicants in the FIR and perused the papers of investigation.

[7] Having heard the learned counsel for the parties by video conferencing and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused and punishment prescribed for the alleged offences, without discussing the evidence in detail, at this stage, this Court is inclined to grant anticipatory bail to the applicants. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre v. 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 case of **Shri**

Gurubaksh Singh Sibbia & Ors., reported in (1980)2 SCC 565.

[8] In the result, the present application is allowed by directing that in the event of applicants herein being arrested pursuant to FIR No.11210060202435 of 2020 registered with Varachha Police Station, the applicants shall be released on bail on furnishing a personal bond of Rs.15,000/- (Rupees Fifteen Thousands only) each with one surety of like amount, on the following conditions that they:

[a] shall cooperate with the investigation and make themselves available for interrogation whenever required;

[b] shall remain present at the concerned Police Station on 18.01.2021 between 11:00 a.m. and 2:00 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 his residence till the final disposal of the case or till further orders;

[f] shall not leave India without the permission of the Court and, if having passports shall surrender the same before the Trial Court within a week.

[9] Despite this order, it would be open for the Investigating Agency to file an application for police remand of the applicants to

the competent Magistrate, if he thinks it just and proper and learned Magistrate would decide it on merits. The applicants 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 applicants, 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.

[10] At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the applicants on bail. Rule is made absolute. The present application is disposed of accordingly. The Registry is directed to communicated this order to the concerned court by email.

(VIKRAM NATH, CJ)

A. B. VAGHELA/RADHAN