



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 11058 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Approved for Reporting	Yes	No
		✓

UPENDRA KUMAR JAYPALSINH
 Versus
 STATE OF GUJARAT

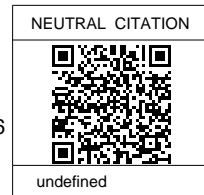
Appearance:

MR D S GADHVI(11310) for the Applicant(s) No. 1
 MS DHWANI TRIPATHI, APP for the Respondent(s) No. 1

CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

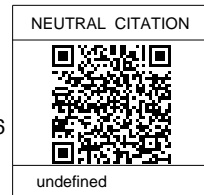
Date : 12/05/2026
JUDGMENT

1. Rule. Learned APP waives service of notice of Rule for the respondent-state.
2. By way of the present successive application under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the applicant accused has prayed to release him on anticipatory bail in the event of his arrest in connection with the FIR being **C.R. No.5 of 2025 registered with ATS Police Station, Ahmedabad** for the offence punishable under Sections 336(2), 337, 338, 339, 341(2)(4), 54 and 61 of the Bharatiya Nyaya Sanhita (BNS), 2023 and Section 25(1-b)(A) of the Arms Act.
3. Though Notice under Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") has been issued but the applicant did not join the investigation. Thereafter charge-sheet has been filed by the investigating agency. It appears that the present applicant is cited as accused and the applicant is shown in **Column No.2 of charge-sheet.**



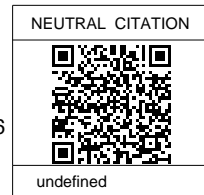
4. Mr. D.S. Gadhvi, learned advocate for the applicant submits that the present applicant has nothing to do with the alleged offence and has been falsely implicated in the matter. It is submitted that the applicant is a government servant, is innocent, and has neither directly nor indirectly played any role in the commission of the alleged offence. It is further submitted that whatever act is alleged to have been committed was done by the computer operator. The complaint has been filed belatedly after a period of three years and no explanation for such delay has been given. It is also submitted that the applicant has no past antecedents. According to the submissions, the alleged offence, if any, was committed by one Pawan Kumar, who was working as a data entry operator through an outsourced appointment and had complete access to operate the online portal/website, including possession of the office password, through which wrong information/data came to be entered. Hence, Learned advocate for the applicant submits that the nature of allegations are such for which 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. Learned advocate for the applicant, on instructions, states that the applicant is ready and willing to abide by all the conditions. It is submitted that the present applicant is not involved in the alleged offence and therefore, the present application may be allowed.

5. Ms. Dhvani Tripathi, learned APP appearing on behalf of the respondent – State has opposed grant of anticipatory bail



looking to the nature and gravity of the offence and submitted that the applicant is actively involved in the alleged offence. It is submitted that despite issuance of notice under Section 35, the applicant neither joined nor cooperated with the investigation. It is further submitted that the offence is serious in nature and, if anticipatory bail is granted, the possibility of tampering with the evidence cannot be ruled out. Learned APP further submits that in respect of the co-accused having a similar role and involved in an offence of similar nature, the Coordinate Bench has already rejected the application for anticipatory bail. It is also submitted that the regular bail application of co-accused Pawan has been rejected and he is presently in custody. According to the prosecution, the present applicant was also working on the same table as a weapon clerk and had played an active role in forging licences and tampering with the online government data. It is further submitted that the present applicant is absconding and his name has been shown in Column No.2 of the charge-sheet. Therefore, the present application for anticipatory bail is not maintainable at the instance of an absconder. Considering the aforesaid facts and circumstances, learned APP has requested that the present application be dismissed.

6. While considering the anticipatory bail, the Court has to consider, the following factors; (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

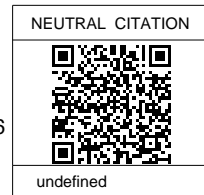


humiliating the applicant by having him so arrested, either reject the application forthwith or issue an interim order for the grant of anticipatory bail;

7. Having heard the learned advocates for the respective parties and having perused the papers on record, it appears that the ATS Police Station, Ahmedabad, has registered the present offence in connection with bogus arms licences issued during the period from 2019 to 2022. It has come on record that such forged arms licences were used on a large scale for possessing arms, revolvers, pistols and live cartridges. In connection therewith, the complaint came to be registered.

8. During the course of investigation, it was revealed that the aforesaid arms licences were forged and were generated from the office at Etah, Uttar Pradesh. It further appears that, in collusion and connivance with one co-accused advocate and with the assistance of co-accused Pawan Kumar Ganga Prasad Lodi (computer operator), Rajkumar Babulal (clerk) and the present applicant Upendra Jaypalsinh (weapon clerk), the accused persons, for their pecuniary gain, misused the Government of India portal NDAL-ALIS by using unique identification numbers (UINs). The investigation further reveals that details of previously issued genuine arms licences, including names, validity and territorial particulars, were deleted from the system and, by editing the data on the official website, forged arms licences came to be issued in place of the original licences.

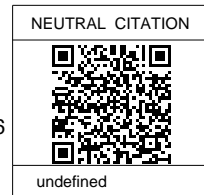
9. It further transpires from the investigation that for issuance of such forged licences, an amount of **Rs.98,32,500/-**



was received in cash as well as through banking transactions from 12 persons arrested from Ahmedabad. Not only that, on the strength of such forged arms licences, the accused persons managed to procure arms from J.P. Gun House situated in Uttar Pradesh and facilitated the purchasers in obtaining arms on the basis of 12 bogus licences. The arms and cartridges have also been recovered during the course of investigation.

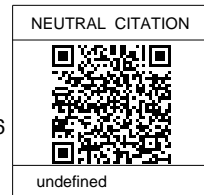
10. Further, involvement and role of the present applicant is concerned, it appears that he was serving as a weapon clerk during the period from 16.01.2021 to 09.03.2021 and again from 18.09.2021 to 19.11.2021 in the concerned department. The material collected during the investigation prima facie indicates that the present applicant had edited licence data using the UIN numbers and thereafter such licences came to be transferred to Gujarat. Thus, prima facie involvement of the present applicant is reflected from the investigation papers. One additional important aspect is that, though the present applicant is a government servant, despite notices being issued through the Collector, Etah, calling upon him to join the investigation, he neither remained present nor cooperated with the investigating agency. Such conduct prima facie indicates an attempt on the part of the applicant to thwart the investigation proceedings.

11. It is worth to mention that the applicant is shown as absconder in Column No.2 of charge-sheet. It appears that he is on run. Hence, in view of the law laid down by the Hon'ble Apex Court in case of State of **Haryana vs. Dharamraj reported in 2023 INSC 784; Lavesh vs. (NCT of Delhi) reported in (2012)**



8 SCC 730; Abhishek vs. State of Maharashtra reported in 2022 (8) SCC 282 and Prem Shankar Prasad vs. State of Bihar reported in 2021 SCC OnLine SC 955 and Srikant Upadhyay and Others vs. State of Bihar and Another reported in 2024 SCC OnLine SC 282 and Serious Fraud Investigation Office vs. Aditya Sarma reported in 2025 INSC 477, State of Madhya Pradesh v. Pradeep Sharma, (2014) 2 SCC 171, the Court is of the considered view that this is not a fit case to exercise its jurisdiction to grant pre-arrest bail in favour of the applicant.

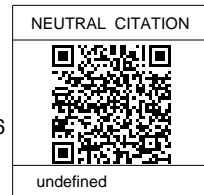
12. In aforesaid backdrop, custodial interrogation is necessary. When serious offences are disclosed and involvement of an accused prima facie established then, the Court would be loath to lean in favour of grant of pre-arrest bail in absence of any other overriding considerations. The alleged offence is in nature of white collar and socioeconomic offence, this Court is conscious with the safeguards provided under Section 482 of the BNSS (section 438 of the CrPC) and concept of the personal liberty. But herein, I am of the considered of view that, the present offence is not just an offence against any individual rather the largest societal interest and public welfare is involved in and in such circumstances, the delicate balance is required to be maintained between two rights one against the personal liberty and second is societal interest. Arrest is part of the process of investigation and intended to secure several purposes. In which the accused may provide information, during the the discovery of material facts and to relevant information.



13. In such circumstances, when investigation is in a progressive stage if, anticipatory bail is granted may hamper the investigation and to collect the material in the more information, and find out the involvements of another person custodial interrogation is also necessary, therefore, keeping in mind the law laid down by the Honourable Supreme Court in the case of (i) **State Rep. by the CBI V/s Anil Sharma reported in 1997 (7) SCC 187**, (ii) **Adri Dharan Das V/s State of W.B. reported in 2005 (4) SCC 303** and (iii) **P. Chidambaram V/s Directorate of Enforcement reported in AIR 2019 SC 4198**, wherein the Hon'ble Supreme Court has held held as follows:

"The legislative intent behind the introduction of Section 438 CrPC is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights – safeguarding the personal liberty of an individual and the societal interest.

Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. There may be circumstances in which the accused may provide information leading to discovery of material facts and relevant information. Grant of anticipatory bail may hamper the investigation. It may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Pre-arrest bail is to strike a balance between the individual's right to personal freedom and the right of the investigating agency to interrogate the accused as to the material so far collected and to collect more information which may lead to recovery of relevant information. In this view, it cannot be

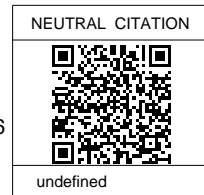


said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant/applicant under Article 21 of the Constitution of India.

Consequently, power under Section 438 CrPC being an extraordinary remedy, has to be exercised sparingly; more so, in cases of economic offences. Economic offences stand as a different class as they affect the economic fabric of the society. The privilege of the prearrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of the applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Section 438 CrPC is to be invoked only in exceptional cases where the case alleged is frivolous or groundless. Anticipatory bail is to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy".

Having regard to nature of allegations and stage of investigations, held investigating agency must be given sufficient freedom in process of investigation. Appellant not entitled to anticipatory bail as the same would hamper the investigation"

14. Insofar as the submission on behalf of the applicant that in the present case, no custodial interrogation is required is concerned, it is required to mention that herein, prima facie case is made out against the present applicant and there are serious allegations against the applicant. Thus, in order to reach to a logical conclusion of the investigation, the Investigating Officer deserves a free hand. There is no rule that if custodial interrogation is not required then anticipatory bail is required to be granted. The custodial interrogation is one of the good grounds to reject the anticipatory bail application but merely



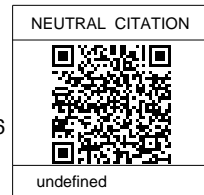
because custodial interrogation is not required, itself is not a ground to allow the anticipatory bail application. In this regard, reference is required to be made to the decision of the Hon'ble Apex Court in the case of **Sumitha Pradeep Vs. Arun Kumar C.K. reported in 2022 SCC OnLine (SC) 1529**, wherein it is observed and held as follows:

“In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail.”

In view of the above decision and in view of the facts and circumstances of this case, custodial interrogation of not only the applicant, but all other suspect/s is therefore imperative to unearth the truth. Hence, this is a not a fit case to exercise the jurisdiction in favour of the applicant

15. The Hon'ble Apex Court in the case of **Jai Prakash Singh vs. State of Bihar & Anr.** reported in **(2012) 4 SCC 379** has been pleased to hold as under:-

“Parameters for grant of anticipatory bail in a serious offences are required to be satisfied and further while granting such relief, the court must record the reasons therefore. Anticipatory bail can be granted only in exceptional circumstances where the Court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty.”

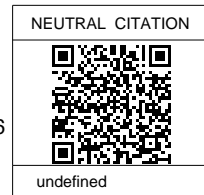


16. It is appropriate to refer to the judgment of the Hon'ble Apex Court rendered in the case of **Pratibha Manchanda vs. State of Haryana** reported in **AIR 2023 SC 3307**, wherein the Hon'ble Apex Court has observed thus:-

“19. The relief of Anticipatory Bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.”

17. The object of anticipatory bail is that person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. In present case, no any such sort of allegation or bias is found out it is needless to say that order under Section 438 of the Cr.P.C is not a passport to the commission of trial nor a shield against any serious accusation, which adversely affects the society.

18. This Court is of the considered view that if the present accused is equipped with protective order, it would obviously adversely affect the case of the prosecution and the qualitative investigation as the applicant is absconding, having trained legal mind and he will tamper with evidence and witnesses of prosecution.



19. For the foregoing reasons and considering the law laid down in the above cited decisions of this Court as well as the Hon'ble Apex Court, this Court is of view that it is not a fit case to exercise the discretion under Section 482 of the BNSS in favour of the present applicant. Accordingly, present application does not deserve any consideration and is hereby **dismissed**. Rule is discharged.

20. It is made clear that the observations made in the present order are tentative in nature and the learned trial Court shall decide the regular bail application of the applicant on its own merits without being influenced by the observations made in the present order.

ALI

(HASMUKH D. SUTHAR,J)