

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 4350
of 2026**

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RAJESHBHAI @ VALKU DEVCHANDBHAI JIYANI & ORS.
Versus
STATE OF GUJARAT

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Appearance:

MR JEET B KARIA(11991) for the Applicant(s) No. 1,2,3
MR RAJ M THAKKAR(12366) for the Applicant(s) No. 1,2,3
MR RONAK RAVAL, APP for the Respondent – State
HCLS COMMITTEE(4998) for the Respondent – Ori. Complainant
MS URMILA N DESAI(5609) for the Original Complainant

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CORAM:HONOURABLE MR.JUSTICE SANJEEV J.THAKER

Date : 08/10/2026

ORAL ORDER

**“The dignity of a woman cannot be permitted
to be violated by force, threat or fear.”**

1. The present case involves serious allegations of rape, repeated molestation and threats to the victim. It is also alleged that the incident of rape was recorded on a mobile phone and that the said recording was thereafter used to threaten and control her. Such allegations concern not only the physical safety of the victim but also her dignity, confidence and sense of security. Acts of this nature also have a serious impact on the feeling of safety of women in society. These circumstances, therefore, require due consideration while deciding the prayer for anticipatory bail.

2. By way of this application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short*, “*BNSS*”), the applicant has prayed for anticipatory bail in the event of arrest in connection with the FIR being C.R. No.11193008250793 of 2025, registered with the Babra Police Station, District : Amreli for the offences punishable under Sections 64(2)(m), 75(2), 351(3) and 54 of the Bharatiya Nyay Sanhita (‘the BNS’ for short).

3. *Rule.* Learned Additional Public Prosecutor waives service of notice of rule for respondent – State of Gujarat.

4. Heard learned advocates.

5.1 Learned Advocate for the applicants has submitted that there was a consensual relationship between the victim and accused No.1 and that accused No.1 had also proposed to marry the victim. It is submitted that the said relationship could not culminate in marriage owing to various social circumstances, including caste considerations and the age difference between them. It is further submitted that the victim had a prior relationship with one Irfan, which was disclosed by accused No.2 to the brother of the victim, and that the said disclosure had resulted in resentment against accused No.2.

5.2 It is further submitted that the FIR came to be

registered almost one year after the alleged incident and, therefore, there is an inordinate delay in lodging the complaint. Learned Advocate has further submitted that the complainant was an adult and was neither immature nor a vulnerable person incapable of understanding the nature and consequences of her actions. It is also submitted that the allegations against accused Nos.2 and 3 are concocted and have arisen out of their proximity as neighbours and the prior discord relating to the victim's earlier relationship.

5.3 It is, therefore, submitted that the present application may kindly be allowed.

6.1 *Per contra*, Mr. Ronak Raval, learned Additional Public Prosecutor for the State, vehemently opposed the application. Referring to the contents of the FIR, he submitted that this is a heinous offence against society. The accused, who are neighbours of the victim, have taken advantage of her situation and, in collusion with each other, have committed the offence. It was submitted that the victim was subjected to rape and the present accused had an active role in the commission of the offence. The accused created such circumstances for the victim and committed the offence on multiple occasions. They took advantage of the poor financial condition of the victim, who is a daily wage labourer, and molested her.

6.2 It was further submitted that the accused intentionally prepared a video of the act to blackmail the victim and, by blackmailing her, continued to commit the offence. All the accused have tried to exploit the vulnerable situation of the victim. Hence, it was prayed that the application be dismissed.

7. Having heard learned advocates for the respective parties and having considered the material available on record, including the police papers, this Court finds as under:

7.1 Having considered the FIR as a whole, it appears that specific allegations have been made against all the three accused. The allegations are not general in nature. The role attributed to each accused is also different. The allegations against each accused therefore require separate consideration.

7.2 The allegation against accused No.1 is that he caught hold of the victim while accused No.2 tied both her hands. He thereafter pushed the victim on the bed and demanded physical relations. On her refusal, he removed her clothes and committed rape upon her.

7.3 It is further alleged that on several occasions, when the victim went with accused No.2 to the field for

labour work, accused No.1 used to molest her. The FIR also states that when the victim went to the house of accused No.2 to get milk, accused No.1 used to take her in his arms, kiss her, touch her private parts and physically assault her. When the victim tried to escape, accused No.2 allegedly caught her and took her into the room where accused No.1 used to rape her.

7.4 Thus, the allegation against accused No.1 is of committing rape upon the victim and of repeatedly molesting and physically assaulting her. The allegations are specific and serious. The material presently available discloses a prima facie case against accused No.1. Having regard to the nature of the allegations and his specific role, he does not deserve the discretionary relief of anticipatory bail.

7.5 The allegation against accused No.2 is that she tied both the hands of the victim during the incident. It is further alleged that she recorded the incident of rape on her mobile phone. She thereafter told the victim that the incident had been recorded and threatened her that whenever accused No.1 demanded physical relations, she should submit to him. She further threatened that, if the victim refused, the incident would be disclosed to her family and, if she approached the police, the video would be circulated publicly.

7.6 It is also alleged that when the victim tried to leave the house of accused No.2, she caught hold of the victim and took her into the room where accused No.1 used to rape her.

7.7 The allegations therefore disclose active involvement of accused No.2. Her role is not merely that of a person who happened to be present at the place. The allegation is that she restrained the victim, recorded the incident and thereafter used the recording to threaten her.

7.8 It is also relevant that the mobile phone in which accused No.2 is alleged to have recorded the video of the rape is yet to be recovered. The recovery of the mobile phone and examination of the alleged video are relevant parts of the investigation. At this stage, therefore, the investigation concerning this material has not been completed.

7.9 Considering the specific allegations against accused No.2 and the fact that the mobile phone containing the alleged recording is yet to be recovered, there is prima facie material indicating her involvement in the alleged offences. This Court therefore finds no ground to grant her anticipatory bail.

7.10 The FIR states that accused No.3 is the husband of accused No.2. It is alleged that when accused No.3 came into the room, accused No.1 ran away from the place.

7.11 There is also a specific allegation that accused No.3 demanded physical relations from the victim. The victim refused. Thereafter, accused No.3 allegedly threatened her and told her not to disclose the incident to her family.

7.12 The allegation against accused No.3 is therefore distinct. It is not based merely on his relationship with accused No.2 or his presence in the house. A specific allegation has been made that he himself demanded physical relations and, after the victim refused, threatened her.

7.13 The victim has also reiterated the material allegations in her statement recorded under Section 183 of the BNSS. The victim is stated to be about 25 years of age. At this stage, the Court is not required to conduct a detailed appreciation of the evidence. It is sufficient to examine whether the material on record discloses a prima facie case. In respect of accused No.3 also, such material is available.

7.14 The allegations in the present case concern rape,

molestation and threats to the victim. Such acts affect not only the physical safety of a woman but also her dignity and sense of security. A woman may also face fear and social pressure while disclosing such an incident, particularly when threats are given regarding disclosure to her family or circulation of a recorded video.

7.15 In the present case, the allegation regarding the video is also accompanied by an allegation that it was used to threaten the victim and to compel her to submit to further demands. Such circumstances cannot be ignored while considering a prayer for anticipatory bail.

7.16 The statement of the victim recorded under Section 183 of the BNSS substantially reiterates the allegations made in the FIR. At this stage, the material on record gives prima facie support to the prosecution case against all three accused. The role attributed to each accused is different, but the allegations against each are specific.

8.1 So far as accused No.1 is concerned, the specific allegations of rape, molestation and physical assault, coupled with the statement of the victim, disclose a *prima facie* case against him.

8.2 So far as accused No.2 is concerned, the allegations disclose her active involvement in restraining the victim, recording the incident and threatening her thereafter. The mobile phone in which the alleged video was recorded is yet to be recovered. This is a relevant circumstance at the stage of investigation.

8.3 So far as accused No.3 is concerned, there is a separate allegation of demanding physical relations from the victim and threatening her after she refused the same.

9.1 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.”

9.2 It would be apposite to refer the judgment of the

Hon'ble Apex Court rendered in 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.”

9.3 Further, the submission that custodial interrogation is not required, cannot be a ground of granting anticipatory

bail in view of the decision of the Hon'ble Apex Court in the case of ***Sumitha Pradeep versus Arun Kumar C.K. and Another*** reported in 2022(0) AIJEL-SC 70056 = ***2022 LiveLaw (SC) 870***, wherein the Hon'ble Apex Court has observed as under :

“...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. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the

nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

10. Considering the aforesaid circumstances and the nature of the offence, this Court is of the view that the role attributed to the applicant requires proper investigation. Moreover, as held by the Hon'ble Apex Court in Special Leave Petition (Crl.) No.15785 of 2026, it is not for the High Court to prescribe or suggest the manner in which an accused should be interrogated. The manner and extent of interrogation are matters which should be left to the discretion of the investigating agency, depending upon the requirements of the investigation. The applicant has, therefore, failed to make out a case for grant of anticipatory bail. The application accordingly deserves to be rejected and is **rejected** accordingly. Rule stands discharged.

(SANJEEV J.THAKER,J)

M.H. DAVE/104