

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 13550 of 2022**

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MANSI JIMIT SANGHAVI
Versus
STATE OF GUJARAT

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Appearance:
ANMOL SUROLLIA(9379) for the Applicant(s) No. 1,2
MR L B DABHI, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 03/08/2022****ORAL ORDER**

1. Heard learned Advocate Mr. Anmol Surollia for the applicants and learned Additional Public Prosecutor Mr. L. B. Dabhi on behalf of the respondent-State.
2. **Rule.** Learned APP Mr. Dabhi waives service of rule on behalf of the respondent-State.
3. By way of this application under Section 438 of the Code of Criminal Procedure, 1973, the applicants pray for being granted transit bail for a period of 30 days, more particularly to approach the competent Court within the Maharashtra State, since the applicants apprehend their arrest in connection with investigation, with regard to unfortunate death on account of suicide of one Mr. Jimit Shanghavi, husband of applicant No.1 herein and son-in-law of applicant No.2 herein.

4. Learned Advocate Mr. Anmol Surollia for the applicants would submit that while undoubtedly, to the best of knowledge of the applicants, there is no FIR registered by the police authorities with regard to the death of Mr. Jimit Shanghavi, wherein the present applicants have been arraigned as accused, but at the same time, based upon the news papers reports, more particularly since such reports inter alia seem to state that the deceased had left behind a suicide note, probably implicating the applicants, therefore the applicants have a reasonable apprehension that they would be arrested in connection with investigation into the said suicide. Learned Advocate therefore would submit that the applicants may be protected for some reasonable period, during which period they can approach the concerned Court for preferring an appropriate application. Learned Advocate Mr. Anmol Surollia has in support of his submissions relied upon the decision of the High Court of Bombay in case of **N.K. Nayar and others Vs. State of Maharashtra and others**, reported in **1985 CriLJ 1887**.

5. This application is opposed by learned APP Mr. Dabhi appearing on behalf of the respondent-State, who would submit that while an application praying for anticipatory bail apprehending arrest, even without an FIR is now permissible, but at the same time, an application for transit bail, may not be considered by this Court, more particularly in absence of there being an FIR, the applicants may not be able to contend that there is a reasonable

apprehension of their arrest. Learned APP would also point out that while the present application had been preferred on 19.07.2022 and whereas this Court had heard the present application on 26.07.2022 and 27.07.2022 and had adjourned the matter to today, but even today, there is no information provided by the applicants that any FIR has been registered. Having regard to such submissions, learned APP Mr. Dabhi would submit that apprehension of the applicants, of impending arrest, not being supported by any material, this Court may not entertain the present application and may not grant transit anticipatory bail to the present applicants.

6. Heard learned Advocate for the parties and perused the documents on record.

7. It appears that the applicant No.1 was married to one Mr. Jimit Shanghavi, who was a resident of Bombay and whereas the said Mr. Jimit Shanghavi had unfortunately committed suicide on 13.07.2022. It appears that there are news papers reports, which would show that the late Mr. Jimit Shanghavi had written a suicide note and whereas he had inter alia mentioned about domestic disputes resulting in depression and on account of which he was committing an act in question. The applicants, as noted hereinabove, are the wife and father-in-law, respectively. At this stage, it needs to be reiterated that the law, with regard to apprehending arrest an

application for grant of pre-arrest/anticipatory bail, is by now well settled that a person is entitled to approach Sessions Court or High Court or even Hon'ble Apex Court, as the case may be, praying for grant of appropriate protection from arrest inspite of there being no FIR registered against the such person. The question is that if a person could be protected by a High Court in case of apprehension of his/her being arrested even in absence of FIR, would it be justifiable for the High Court to grant protection to a person who apprehends his/her arrest in a different State and in case no FIR has been registered till the hearing of case in taken up, in the considered opinion of this Court, the question has been answered by a Division Bench of the High Court of Bombay in the judgment of **N.K. Nayar (supra)** as relied upon by learned Advocate for the applicants. In the said decision the Hon'ble Division Bench of the Bombay High Court was concerned with an application by a person to whom a notice had been issued by the Regional Provident Fund Commissioner of Gujarat State, and whereas the applicant therein had apprehended that qua having committed offence under the Provident Funds Act, he would be arrested upon entering into Gujarat State. The Hon'ble Division Bench had, in the said decision inter alia, noted as thus :

"...The provisions for the grant of anticipatory bail are contained in [Section 438](#) of the Cr. P.C. An application for such type of bail can be made to the High Court or to the Court of Session whenever a person has reason to believe that he may be arrested

on an accusation of having committed a non-bailable offence. Thus, the real cause for making an application under [Section 438](#) is the contemplated arrest of a person. If this arrest is likely to be effected within the jurisdiction of this Court, we think that the concerned person should have the remedy of applying to this Court for anticipatory bail. This is more so when the Supreme Court in the case of [Gurbaksh Singh Sibbia v. State of Punjab](#) , has observed in para 6 as follows:

The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore effective at the very moment of arrest.

Thus an order of anticipatory bail would have a relevancy to the moment of arrest of the concerned person. Consequently this Court would have jurisdiction if a person is likely to be, arrested at a place within, the jurisdiction of this Court. We may with advantage refer to a few decisions of the other High Courts which have taken a similar view. For example, Karnataka High Court in the case of [Dr. L. R. Naidu v. State of Karnataka](#) reported in 1984 Cri LJ 757, and the Calcutta High Court in the case of [B. R. Sinha v. State](#) reported in 1982 Cri LJ 61, have taken a view similar to the one which we have taken. There is also a decision of the Delhi High Court on the same lines. It would thus be clear that this Court would have jurisdiction to entertain both the applications even if the offences are said to have been committed outside the State of Maharashtra."

8. Having regard to the discussion of the Hon'ble Division Bench of the Bombay High Court referred to hereinabove, and further considering the legal proposition that if for an offence of the like nature which had been

committed within the State of Gujarat, this Court being competent to decide the application and being competent to grant anticipatory bail to the said applicants, in the considered opinion of this Court, it would also be competent for this Court to grant transit anticipatory bail in favour of the applicants even where there is no FIR filed against the applicants in a State other than the State of Gujarat and whereas the applicants have only projected reasonable apprehension of their arrest before this Court.

9. Having regard to the same, this application deserves to be allowed and hence, the following order :

The applicants shall not be arrested for a period of **30 days** in connection with investigation, with regard to unfortunate death on account of suicide of one Mr. Jimit Shanghavi, and the applicants may approach the Competent Court with territorial jurisdiction for the purpose of obtaining anticipatory bail/appropriate orders in connection with the aforesaid and this order shall remain in force up to 30 days.

10. It is made clear that if the applicants fails to comply with the above conditions and does not approach the Court of competent jurisdiction, the transit bail granted by this Court shall stand automatically canceled. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(NIKHIL S. KARIEL,J)