

GJJM010040772025	 सत्यमेव जयते	Filed on	:	08/10/2025		
 CRMA S/1557/2025		Registered on	:	08/10/2025		
		Decided on	:	15/10/2025		
		Duration	:	Years	Months	Days
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BEFORE THE HON'BLE 3rd ADDL. SESSIONS JUDGE
JAMNAGAR.

Criminal Misc. Application No.: 1557/2025

Exh. :- **9**

Applicant / Accused	ALKESH HARILAL PENDHADIYA Age : 38 Years, Occupation : Chartered Accountant, <u>Resi. At</u> : 401 Meera Residency Mayur Park, Nr. Samarpan Cricle, District- Jamnagar.
Versus	
Opponent	STATE OF GUJARAT <u>Through</u> : THE LD.PUBLIC PROSECUTOR District Court Building, Jamnagar.

APPEARANCE :-

Ld. Advocate for the Applicant / Accused	Mr. A. N. Mehta Mr. J. M. Kukadiya
Ld. Additional Public Prosecutor for State	Mr. J. K. Bhandari

Trial Court	Triable by Ld. Magistrate
Offence	Under Section 69, 132 etc. of the Central / Gujarat Goods & Services Tax Act, 2017 ('GST Act' for short)

**APPLICATION FOR ANTICIPATORY
BAIL UNDER SECTION 482 OF THE
BHARATIYA NAGARIK SURAKSHA SANHITA.**

-:: J U D G M E N T ::-

- (1). This application is with the prayer for anticipatory bail in connection with aforesaid offence alleged and anticipated to be registered. The Applicant/Accused has preferred the present anticipatory bail application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (U/s. 438 of Indian Penal Code), for releasing him on anticipatory bail, for the alleged above stated offenses.
- (2). I have heard the Ld. Advocate for Applicant /Accused and the Ld. P.P. for Opponent-State at length. I have considered the facts and circumstances of case on record, grounds stated in anticipatory bail application and affidavit of I.O. at Exh.-6 and record of investigation shown during argument.
- (3). The Ld. Advocate for Accused has humbly submitted that the applicant is absolutely innocent person and has not committed any of the offence under the GST Act and there is no prima facie case against the applicant and looking the fact of present case and age of Accused and dependency of his family, it is requested to kindly grant bail. The Applicant anticipate that though he is being issued undated Summons at Mark-3/7 by Mr. M. J. Tala, Asstt. Commissioner(2), Enforcement, Division-10, Rajkot and Summons dated 03/10/2025 at Mark-3/8 by Mr. O. P. Chauhan, Asstt. Commissioner of State Tax(1), Enforcement, Div-9, Bhavnagar, for producing Record & Statement regarding Brahm Associates, he apprehend that

he may be arrested. The Ld. Advocate for Accused has further humbly submitted that if bail is not granted, then it will amount to Pre-Trial Punishment.

- (4). The Ld. Advocate for Accused has further humbly submitted that the Applicant/Accused is an innocent person and he may be falsely implicated with such alleged offence and no prima facie case is made out against present Accused. It is further submitted that the Applicant give assurance to abide and comply all conditions, which may be imposed by the Court, if he is permitted to enjoy his fundamental right of liberty. It is further submitted that the Applicant / Accused is well-known Chartered Accountant and resident of the State. Therefore, the Ld. Advocate for Accused has respectfully prayed to release the Accused on anticipatory bail by imposing suitable conditions.
- (5). The Ld. Public Prosecutor has strongly opposed the bail application. The Ld. Public Prosecutor has submitted that from the record, a strong case is made out against present Applicant/Accused. It is further submitted that if Applicant is released on bail, there is possibility to tamper with the evidence and influence/threat the witnesses and therefore, he has prayed to dismiss the present anticipatory bail application. As against that argument, the Ld. Advocate for the Accused has stated that Accused will co-operate in the Trial and will not threat / influence any witness.

- (6). The offence is likely to be registered with regard to the Summons under Section 70 of the Central / Gujarat Goods and Service Tax Act, 2017, was issued to the Applicant / Accused from the Assistant Commissioner of State Tax, Enforcement, Division-10, Rajkot, to remain present for producing record and statement and another summon of the same date was from Assistant Commissioner of State Tax (1), Enforcement, Division-9, Bhavnagar, calling upon the applicant to remain present to record statement.
- (7). If we go through the Summons at Mark-3/7 & 3/8, then the Summons is issued to the Applicant for producing record of M/s. Brahm Associates and giving statement by Alkesh Hiralal Pedhadiya.
- (8). The Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which deals with anticipatory bail. This section allows a person who fears arrest for a non-bailable offence to apply to a High Court or Sessions Court for a direction that they be released on bail if arrested. The court can impose conditions, such as requiring the person to be available for interrogation and not to leave India without permission. This provision replaces the former Section 438 of Cr.P.C. A pre-arrest protective order that allows for release on bail if arrested. Any person who has reason to believe they may be arrested for a non-bailable offence can apply for anticipatory bail.
- (9). The Ld. Advocate for the Applicant / Accused has

submitted that though time and again, the Hon'ble Apex Court as well as the Hon'ble High Court has observed that when an offence is punishable with imprisonment upto 7 years, then it is mandatory on the part of the police authority to scrupulously follow the directions issued by the Hon'ble Apex Court in the cases of ¹ARNESH KUMAR Vs. STATE, ²SATENDER KUMAR ANTIL Vs. CENTRAL BUREAU OF INVESTIGATION and ³Md. ASFAK ALAM Vs. STATE OF JHARKHAND and further held that police shall comply with said directions and provision made under Section 41A of Code of Criminal Procedure and prior to making mechanical arrest of a person, police authority shall have to follow the aforesaid provisions and dictum as well.

- (10). The Ld. Advocate for the Applicant has submitted that two of the proprietor of the firm who are alleged to have committed evasion of tax, for which the Applicant was Chartered Accountant, have filed the F.I.R after filing of this bail application, which are produced at Mark-7/1 and 7/2 with Jamnagar City C Division Police Station. The alleged offence is punishable under Section 406 of I.P.C., which is punishable only upto 3 years. It is worthless to note that the Investigating Officer of concerned alleged offence registered vide F.I.R. at Mark.-7/1 and Mark-7/2 are bound to file the directions issued in the judgment of 'Arneshkumar'. The Ld. Advocate for the Applicant has drawn attention of this Court with regards to Instruction No. 2/2022-23(GST Investigation) of GST Investigation

¹ ARNESH KUMAR Vs. STATE : (2014) 8 SCC 273
² SATENDER KUMAR ANTIL Vs. CENTRAL BUREAU OF INVESTIGATION : (2022) 10 SCC 51
³ Md. ASFAK ALAM Vs. STATE OF JHARKHAND : 2023 SCC OnLine SC 892

Wings, New Delhi, wherein the procedure for summons and arrest is prescribed, which the GST Officers are bound to comply with.

- (11). It is undisputed facts that the alleged offences in present case is **punishable maximum upto five years imprisonment**. Under such circumstances, the officer concerned has to strictly follow directions issued in above referred authorities.
- (12). Time and again, such directions are issued by the Hon'ble Gujarat High Court in case ⁴**CHIRAG VIJAY RESHAMWALA Vs. STATE OF GUJARAT**, ⁵**ANURADHA AJIT MENON Vs. STATE OF GUJARAT** and ⁶**DHARMENDRASINH VIKRAMSINH CHAMPAVAT Vs. STATE OF GUJARAT** and even directions are also issued by the Hon'ble High Court of Gujarat vide Circular No. 2703/81, dated 25/08/2023.
- (13). The Ld. Advocate for the Applicant has vehemently argued that procedure for assessment is being prescribed in Section 73 of Central / Gujarat Goods and Services Tax Act, 2017 and procedure for recovery is prescribed in Section 78 and 79 of Central / Gujarat Goods and Services Tax Act, 2017. The Ld. Advocate for the Applicant has further argued that if anybody is aggrieved with the assessment, then he has to right to file appeal under Section 107 of Central / Gujarat Goods and

4 **CHIRAG VIJAY RESHAMWALA Vs. STATE OF GUJARAT**
: Cr.M.A. No. 20651/2023, D/- 10/11/23

5 **ANURADHA AJIT MENON Vs. STATE OF GUJARAT** : Cr.M.A. No. 17218/23, D/- 27/09/23

6 **DHARMENDRASINH VIKRAMSINH CHAMPAVAT Vs. STATE OF GUJARAT**
: Cr.M.A. No. 20491/2023, D/- 10/11/23

Services Tax Act, 2017, within a period of 3 Months and he has further right to file 2nd Appeal under Section 112 before the Appellate Tribunal. The Ld. Advocate for the Applicant has further submitted that 2nd Appellate Tribunal as required under Section 112 of Central / Gujarat Goods and Services Tax Act, 2017, is yet not established in Gujarat and therefore, the right of public is hampered at large. Further, the Appeal could be preferred to the Hon'ble High Court under Section 117 of Central / Gujarat Goods and Services Tax Act, 2017 and the Appeal to the Hon'ble Supreme Court under Section 118 of of Central / Gujarat Goods and Services Tax Act, 2017. The Ld. Advocate for the Applicant has further submitted that after appeal is preferred under Section 107 of Central / Gujarat Goods and Services Tax Act, 2017 and on depositing of 10% of the assessed tax / disputed tax, stay is deemed to be granted. If we go through the report of the concerned office of GST at Exh.-6, then it is clearly stated that investigation is going on. Moreover, there is maximum punishment of 5 years in Section 132(1)(i) of the of Central / Gujarat Goods and Services Tax Act, 2017 and the said offence is compoundable under Section 138 of the of Central / Gujarat Goods and Services Tax Act, 2017. The Ld. Advocate for the Applicant has submitted that they are ready and willing to co-operate in investigation and to produce all the documents, but he apprehend that while appearing on the basis of summons, they will immediately arrest the Accused / Applicant in view of powers under Section 69 of of Central / Gujarat Goods and Services Tax Act, 2017. The case is based on

documentary and electronic evidence and therefore, question of changing of statement will not arise.

(14). The Ld. Advocate for the Applicant has submitted that the house arrest of the wife of the applicant was made for several days, though she was having feeding small baby of 6 months. The Ld. APP could not point out under which provisions, they have a right for keeping the wife of the Applicant in the house arrest. Admittedly, no Notice under Section 35 of the B.N.S. is issued, which is required to be issued before arrest is effected.

(15). The Ld. P.P. has vehemently argued that there were transactions of about 100 crores in Kanbhi Consultancy and about 12 crores in Alex Business Management, wherein the Applicant is director. The Ld. Advocate for the Applicant has submitted that the Applicant is merely director and not the sole director or Managing Director of said company. The Ld. Advocate for the Applicant has vehemently argued that the Bank Statement is showing the transactions and not the evasion of tax and as and when the Applicant appears before the GST Officer, he will convince by producing all relevant documents and those entries, which will justifiable it and in case, if the GST Officer does not get satisfied by the documents produced by the Applicant, then he have a remedy to follow procedure for assessment and pass assessment order and in such case, Applicant may either pay the amount or may prefer the statutory appeal.

(16). The Ld. PP has vehemently argued that the Applicant is Chartered Accountant of several companies, more particularly which is prescribed in the list Annexed with the Pursis at Exh.-8. The Applicant may not be tax evader in all the companies / firm, but he is Chartered Accountant of most of the companies / firms and he is bound to produce all the documents lying with him with regards to those firms, before GST Officer. The Ld. PP has submitted that there are different Investigating Officers from Rajkot, Bhavnagar etc. and therefore, the Applicant will have to appear before every Investigating Officers. The Ld. Advocate for the Applicant has submitted that he will produce all the documents, wherever the GST Officer is. The Ld. PP based on the instruction from the GST Officer has submitted that the Applicant shall appear at the GST Headquarter Office at Ahmedabad, so that all the concerned Investigating Officer can investigate their matter.

(17). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble High Court of Gujarat (Coram : Hon'ble Justice Mr. Vipul M. Pancholi, J) in case of **⁷LALITBHAI NATVARLAL PATEL Vs. R.I. PANDEY** wherein summons under Section 70 of Central Goods & Service Tax Act, 2017 was issued and anticipatory bail was granted by the Hon'ble High Court.

(18). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court of India

⁷ ***LALITBHAI NATVARLAL PATEL Vs R.I. PANDEY***
: 2019-GUJH:11598 =R/CRMA 3175/19, D/-11/3/19

(Coram : Hon'ble Justice Krishna Murari & Hon'ble Justice Ahsanuddin Amanullah, JJ) in case of ⁸**RAJESH KUMAR DADANI Vs. THE STATE OF UTTARAKHAND & ANR.** wherein summons under Section 70 of the Uttarakhand Goods and Services Tax / Central Goods and Services Tax Act, 2017 was issued and offence was under Section 132(i)(iii) and the case based on documentary evidence and other electronic evidence and there was no final assessment yet made and unless the same is determine, the accused person cannot be said to be under the legal liability to make any payment and after considering the facts of the case anticipatory bail was granted.

(19). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court of India (Coram : Hon'ble Justice S. Ravindra Bhat & Hon'ble Justice Dipankar Datta, JJ) in case of ⁹**BAL MUKUND VAISHNAV Vs. THE STATE OF MAHARASHTRA & ANR.** wherein the Accused was granted anticipatory bail for the alleged offence punishable under Section 132(d) and other of Goods and Services Tax Act and under Section 409, 4230, & 468 etc of I.P.C.

(20). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court of India (Coram : Hon'ble Chief Justice Sanjiv Khanna & Hon'ble Justice M.M. Sundresh, JJ) in case of ¹⁰**RADHIKA**

8 ***RAJESH KUMAR DADANI Vs THE STATE OF UTTARAKHAND***
: R/CRMA .../23 (@ SLP (CRI.) 9938/22), D/-27/2/23
9 ***BAL MUKUND VAISHNAV Vs THE STATE OF MAHARASHTRA***
: SLP (CRI.) 2137/23, D/-13/4/23
10 ***RADHIKA AGARWAL Vs UNION OF INDIA AND OTHERS***
: 2025 INSC 272 = WP 336/18, D/-27/2/25

AGARWAL V/s UNION OF INDIA wherein held that to a large extent, our reasoning and the ratio on the applicability of the Code to the Customs Act would equally apply to the GST Acts in view of Sections 4 and 5 of the Code. Sub-section (10) to Section 67 of the GST Acts postulates that the provisions of the Code relating to search and seizure shall, as far as may be, apply to search and seizure under the GST Acts, subject to the modification that for the purpose of sub-section (5) to Section 165 of the Code, the word 'Magistrate' shall be substituted with the word 'Commissioner'. Section 69, which deals with the power of arrest, a provision which we will refer to subsequently, also deals with the provisions of the Code when the person arrested for any offence under the GST Acts is produced before a Magistrate. It also deals with the power of the authorised officers to release an arrested person on bail in case of non-cognizable and bailable offence, having the same power and subject to the same provisions as applicable to an officer in charge of a police station. We would, therefore, agree with the contention that the GST Acts are not a complete code when it comes to the provisions of search and seizure, and arrest, for the provisions of the Code would equally apply when they are not expressly or impliedly excluded by provisions of the GST Acts. One of the assertions and allegations made on behalf of the petitioners is that the parties are compelled and coerced to admit and make payment of tax in view of the threat of arrest. This is in spite of the fact that there is no assessment or adjudication as to the alleged demand. It is

to be noted that the figures with regard to the tax demand and the tax collected would, in fact, indicate some force in the petitioners' submission that the assesseees are compelled to pay tax as a condition for not being arrested. Sub-section (5) to Section 74 of the GST Acts gives an option to the assessee and does not confer any right on the tax authorities to compel or extract tax by threatening arrest. This would be unacceptable and violative of the rule of law. We also wish to clarify that the power to grant anticipatory bail arises when there is apprehension of arrest. This power, vested in the courts under the Code, affirms the right to life and liberty under Article 21 of the Constitution to protect persons from being arrested. Arrested.

(21). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble High Court of Gauhati (Coram : Hon'ble Justice Mr. Mridul Kumar Kalita, J) in case of ¹¹**GAURAV AGARWAL S/OP SURESH AGARWAL Vs. THE UNION OF INDIA** wherein this Court is, therefore, is of the considered opinion that in the instant case, there has been violation of the guidelines issued by the Apex Court in the case of 'Arnesh Kumar Vs. State of Bihar" (Supra), and on that count alone, the petitioner is entitled to be released on bail.

(22). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court of India (Coram : Hon'ble Justice J.B. Pardiwala & Hon'ble

11 **GAURAV AGARWAL S/OP SURESH AGARWAL V/s THE UNION OF INDIA**
: 2025-GAU-AS:11998 =BAIL APP.2787/25, D/-4/9/25

Justice R. Mahadevan, JJ) in case of ¹²**P KRISHNA MOHAN REDDY Vs. THE STATE OF ANDHRA PRADESH** wherein where such police statement of an accused is confessional statement, the rigour of Section(s) 25 and 26 respectively will apply with all its vigour. A confessional statement of an accused will only be admissible if it is not hit by Section(s) 24 or 25 respectively and is in tune with the provisions of Section(s) 26, 28 and 29 of the Evidence Act respectively. In other words, a police statement of an accused which is in the form of a confession is per se inadmissible and no reliance whatsoever can be placed on such statements either at the stage of bail or during trial. Since such confessional statements are rendered inadmissible by virtue of Section 25 of the Evidence Act, the provision of Section 30 would be of no avail, and no reliance can be placed on such confessional statement of an accused to implicate another co-accused.

- (23). The Ld. Advocate for the Accused has relied on the decision delivered by the Hon'ble Supreme Court of India (Coram : Hon'ble Justice Sanjay Kishan Kaul & Hon'ble Justice M.M. Sundresh, JJ) in case of ¹³**SATENDER KUMAR ANTIL Vs. CENTRAL BUREAU OF INVESTIGATION** wherein, thus, it is not as if economic offences are completely taken out of the aforesaid guidelines but do form a different nature of offences and thus the seriousness of the charge has to be taken into

12 ***P KRISHNA MOHAN REDDY V/s THE STATE OF ANDHRA PRADESH***
: 2025 LIVELAW (SC) 598 = SLP (CRI.) 7532/25, D/-16/5/25

13 ***SATENDER KUMAR ANTIL V/s CENTRAL BUREAU OF INVESTIGATION***
: 2022 LiveLaw (SC) 577 = MISC. APP. 1849/21 IN SLP (CR.) 5191/21, D/-11/7/22

account but simultaneously, the severity of the punishment imposed by the statute would also be a factor. We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine. The investigating agencies and their officers are duty-bound to comply with the mandate of Section 41 and 41A of the Code and the directions issued by this Court in Arnesh Kumar (supra). Any dereliction on their part has to be brought to the notice of the higher authorities by the Court followed by appropriate action.

- (24). The Ld. P.P. has submitted that the G.S.T. Officer had issued summons under Section 70 of Central Goods and Services Tax Act, 2017 and / or Gujarat Goods and Services Tax Act, 2017 and even lookout notice is issued and the Applicant is not co-operating in their investigation. A lookout notice, also known as a Lookout Circular (LOC), which is a directive issued by a government agency to prevent a specific individual from leaving the country. It is submitted by the Ld. Advocate for the Applicant that though summons was issued to produce record and giving statement, the Applicant was apprehending that he may be falsely arrested and therefore he had filed anticipatory bail application. It is but natural that when anticipatory bail application is preferred, then it can't be termed as absconding of

Applicant during pendency of bail application. Moreover, Applicant cannot be compelled to be a witness against himself and therefore, the fact that he will not answer as wished by GST Officer is not a ground for rejection of bail. Moreover, the Applicant has assured that he would co-operate in the investigation. The offence alleged against firms – clients of Applicant, was serious one in terms of alleged huge loss to State exchequer, that, by itself, however, should not deter Court from enlarging the Petitioner on bail when there is no serious plea of State that accused if released on bail, would interfere with the trial or tamper with evidence. Nothing had been shown before Court which may justify detention of Applicant and alleged offence is punishable with upto 5 years maximum punishment and still no formal accusation in form of FIR or complaint had been filed by department. Merely saying or apprehending that in future they may tamper with evidence or induce any witness cannot be a justification to deny bail. To strike a fine balance between need for arrest and personal liberty, the Applicant can be released on bail.

- (25). The age of Accused seems to be just of 38 Years. He is resident of this State as stated by the Ld. Advocate for the Applicant and if bail is not granted, it seems that he may have to see the days of hardship. The Applicant is a chartered account of several firms, which are alleged to have involved in manufacturing / business / trading of goods or services and those firms are alleged to have evaded G.S.T. The Applicant is a chartered account and

not involved in any manufacturing / business / trading of goods or services and therefore he shall not be liable to pay any G.S.T. and therefore the question will not arise for him to evade Goods & Service Tax. It could be at the most, those firms who might have evaded any Goods & Service Tax, if any and concerned person of those firms could be liable for paying such Goods & Service Tax and penal liability, if any, but their chartered account can't be made liable to pay any Goods & Service Tax, for any evasion of Goods & Service Tax by firms, if any, of whose account the Applicant used to maintain or to audit. Where any amount payable by a person (here-in the concerned person of the firms, who are clients of the Applicant) to Government under any of the provisions of this Act or the rules made thereunder, is not paid, the proper officer shall proceed to recover the amount by one or more of the modes, described in Section 78 & 79 of Central Goods and Services Tax Act, 2017 and / or Gujarat Goods and Services Tax Act, 2017. All the allegation of evasion of Tax is qua firms, who are client of Applicant and evasion of tax is not by Applicant and the concerned person of those firms could be liable, if any. The Accused in such case for offence punishable under Section 132 of Central Goods and Services Tax Act, 2017 and / or Gujarat Goods and Services Tax Act, 2017, could be the concerned person of those firm and not chartered accountant of such firms. Further, such offence is even compoundable under Section 138 of Central Goods and Services Tax Act, 2017 and / or Gujarat Goods and Services Tax Act, 2017. The law laid down by the

Hon'ble Supreme Court in the cases of ¹⁴**ARNESH KUMAR Vs. STATE**, ¹⁵**SATENDER KUMAR ANTIL Vs. CENTRAL BUREAU OF INVESTIGATION** and ¹⁶**Md. ASFAK ALAM Vs. STATE OF JHARKHAND** are required to be strictly followed. The allegation against the applicant / accused is of transaction of bogus billings of sale and purchase. It is crystal clear that granting anticipatory bail does not amount to discharge, but only granting of liberty during the investigation and pending trial with appropriate terms and conditions. Considering facts & circumstances, it will be just and proper to grant him bail. The anticipated offence is triable by the Ld. Magistrate and punishable maximum upto 5 years. There is no past criminal history of the Applicant before filing this application. These are peculiar facts which had appealed this Court to invoke the power under Section 482 of B.N.S. (Section 438 of Code of Criminal Procedure) as it is not fit case to put the Accused behind the bar.

- (26). The Supreme Court held in ¹⁷**SHRI GURBAKSH SINGH SIBBIA Vs. STATE OF PUNJAB** that the Punjab and Haryana High Court erred in putting strict limitations and conditions on granting anticipatory bail under Section 438 of Cr.P.C. that are not present in the statutory language itself. The Section 438 of Cr.P.C. uses wide language and confers a wide discretion on High Courts and Courts of Session to grant anticipatory bail. This discretion should not be curtailed by reading stringent conditions into the

¹⁴ **ARNESH KUMAR Vs. STATE : (2014) 8 SCC 273**
¹⁵ **SATENDER KUMAR ANTIL Vs. CENTRAL BUREAU OF INVESTIGATION : (2022) 10 SCC 51**
¹⁶ **Md. ASFAK ALAM Vs. STATE OF JHARKHAND : 2023 SCC OnLine SC 892**
¹⁷ **SHRI GURBAKSH SINGH SIBBIA Vs. STATE OF PUNJAB : (1980)2 SCC 565**

provision. It held that no inflexible rules can be laid down to limit judicial discretion under Section 438 of Cr.P.C. The Courts must exercise this discretion judiciously based on facts and circumstances of each case. Anticipatory bail is a vital instrument to secure personal freedom and the statutory provision conferring this must receive liberal interpretation in favor of personal freedom. The Supreme Court overruled the stringent propositions laid down by the High Court's Full Bench judgment of P & H High Court and provided a more liberal framework for Courts to exercise discretion in granting anticipatory bail under Section 438 of Cr.P.C. This case is the landmark case on the anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 (CrPC), which says that when any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Sessions for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

- (27). The judgment delivered in case of ¹⁸**SIDDHARAM SATLINGAPPA MHETRE Vs. STATE OF MAHARASHTRA** is a landmark judgment of the Hon'ble Supreme Court, which significantly expanded the principles of anticipatory bail under Section 438 of the Code of Criminal Procedure. The ruling confirmed that anticipatory bail is a crucial part of personal liberty and can be granted at various stages, not just pre-investigation. The court also established that anticipatory

18 **SIDDHARAM SATLINGAPPA MHETRE Vs. STATE OF MAHARASHTRA : 2011(1) G.L.H. 11**

bail should ideally remain in force until the end of the trial unless specific conditions necessitate otherwise. The court emphasized that anticipatory bail is a fundamental right to protect individual liberty from unnecessary apprehension of arrest. Anticipatory bail can be sought and granted even when an FIR has not been lodged, during the pre-investigation stage, or after the investigation has begun. The ruling clarified that anticipatory bail should not be a temporary measure. It should ideally last until the conclusion of the trial, unless there is a compelling reason to limit its duration.

(28). The Hon'ble Supreme Court held in case of ¹⁹**SUSHILA AGGARWAL Vs. STATE (NCT OF DELHI)** that the protection granted to a person Under Section 438 Code of Criminal Procedure should not invariably be limited to a fixed period; it should inure in favour of the Accused without any restriction on time. Normal conditions Under Section 437(3) read with Section 438(2) should be imposed; if there are specific facts or features in regard to any offence, it is open for the court to impose any appropriate condition (including fixed nature of relief, or its being tied to an event) etc. The life or duration of an anticipatory bail order does not end normally at the time and stage when the Accused is summoned by the court or when charges are framed, but can continue till the end of the trial.

(29). The Hon'ble Supreme Court held in case of

²⁰**BHADRESH BIPIN SHETH Vs. STATE** that a great ignominy, humiliation and disgrace is attached to arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage. When the Accused is ready to fully cooperate with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. It is further held that here is no requirement that the accused must make out a “special case” for the exercise of the power to grant anticipatory bail. This virtually, reduces the salutary power conferred by Section 438 CrPC to a dead letter. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints and conditions on his freedom, by the acceptance of conditions which the court may deem fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail. The anticipatory bail granted by the court should ordinarily be continued till the trial of the case. Once the accused is released on anticipatory bail by the trial court, then it would be unreasonable to compel the accused to surrender before the trial court and again apply for regular bail. It is further held that no inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail.

- (30). I have considered the ratio laid down in a decision in case of ²¹SANJAY CHANDRA Vs. CBI and in case of ²²BHAGIRATH SINH S/o. MAHIPAT SINGH JUDEJA Vs. STATE OF GUJARAT of the Hon'ble Supreme Court of India and the ratio laid down in a decision in case of ²³RAKESH PRAHLADRAM JOSHI & ORS. Vs. STATE OF GUJARAT of the Hon'ble Gujarat High Court.
- (31). Order granting or refusing bail is not necessarily required to be speaking order as held by the Hon'ble Supreme Court in case of ²⁴JIVAJI JEDEJA & Ors. Vs. STATE OF MAHARASHTRA & Ors. The Ld. Advocate for the Applicant had relied on the decision delivered by Hon'ble Gujarat High Court in case of ²⁵SOLANKI RAVI DIPU Vs. STATE OF GUJARAT wherein held that if person can be granted bail, even if arrested, then there may be no harm in granting anticipatory bail to such person. At the stage of bail, generally it is to be seen whether Accused will face the trial or not or whether they will interfere in the investigation and they should not be denied bail if readily available at trial by taking proper surety or else it will amount to pre-trial punishment and the Ld. Advocate for the Accused prayed to apply, in present case, the ratio laid down by the Hon'ble Supreme Court in case of ²⁶STATE OF RAJASTHAN Vs. BALCHAND wherein held that bail is the rule and committal to jail an exception and further observed that refusal of bail is a

21 SANJAY CHANDRA Vs. CBI : 2012(1) GLH 93 (SC) = (2012) 1 SCC 40 = Cr.A. 2178/11, D/- 23/11/11

22 BHAGIRATH SINH S/o. MAHIPAT SINGH JUDEJA Vs. STATE OF GUJARAT

: AIR 1984 SC 372 = 1984 SCR (1) 839 = Cr.A. 658/83, D/- 21/11/83

23 RAKESH PRAHLADRAM JOSHI & ORS. Vs. STATE OF GUJARAT : Cr.M.A. No. 4597-11, D/- 12/05/11

24 JIVAJI JEDEJA & Ors. Vs. STATE OF MAHARASHTRA & Ors. : 1987 CrLJ 1850 : AIR 1987 SC 1491

25 SOLANKI RAVI DIPU Vs. STATE OF GUJARAT

: 1992(1) GLR 631 = Cr. M. A. NO. 2681/91, D/- 10-9-91

26 STATE OF RAJASTHAN Vs. BALCHAND : (1977) 4 SCC 308

restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution of India. Considering the facts & circumstances of the case on hand, the anticipatory bail application deserves to be allowed with appropriate terms and conditions. In the humble opinion of this Court, if following order will be passed, then it will be in the interest of justice. Hence, I pass following order to meet the end of justice :

-:: O R D E R ::-

- **The Anticipatory Bail Application under Section 438 of Cr.P.C. of Applicant – Mr. Alkesh Harilal Pedhadiya, is allowed and he shall be released immediately on bail, in case of his arrest, on furnishing surety of Rs.50,000/- (Rupees Fifty Thousands only) and on executing personal bond of like amount by Accused, in connection with offence anticipated to be registered under Section 132 of Central Goods and Services Tax Act, 2017 and / or Section 132 of Gujarat Goods and Services Tax Act, 2017, based on and in pursuance to undated Summons at Mark-3/7 issued under Section 70 of the Central**

/ Gujarat Goods and Service Tax Act, 2017, by the Assistant Commissioner of State Tax, Enforcement, Division-10, Rajkot and Summons dated 03/10/2025 at Mark-3/8 issued under Section 70 of the Central / Gujarat Goods and Service Tax Act, 2017, by the Assistant Commissioner of State Tax (1), Enforcement, Division-9, Bhavnagar and Summons dated 04/10/2025, 05/10/2025, 06/10/2025, 07/10/2025 etc. issued under Section 70 of the Central / Gujarat Goods and Service Tax Act, 2017, subject to the following conditions :

:: CONDITIONS ::

- The Applicant shall remain present before the concerned Investigating Officers / GST Officers, at Gujarat Goods and Service Tax Office, Rajyakar Bhawan, 4th Floor, Enforcement Wing, Ashram Road, Ahmedabad, on dated 18/10/2025 at near about 11:00 A.M.
- The Applicant shall remain personally present before the concerned Investigating Officers / GST Officers, at Gujarat Goods

and Service Tax Office, Rajyakar Bhawan, 4th Floor, Enforcement Wing, Ashram Road, Ahmedabad, with all relevant documents and also electronic record pertaining to all firms stated in list with pursis at Exh.-8, during period from 11:00 Hours to 18:00 Hours on each day on dated 18/10/2025, on dated 19/10/2025 and from dated 27/10/2025 to 02/11/2025. All concerned Investigating Officer shall remain present at GST Officers, Gujarat Goods and Service Tax Office, Rajyakar Bhawan, 4th Floor, Enforcement Wing, Ashram Road, Ahmedabad, on dated 18/10/2025, on dated 19/10/2025 and from dated 27/10/2025 to 02/11/2025, for investigation, without fail.

- The Applicant shall remain present before the concerned Investigation Officer / GST Officer, as & when called upon by service of written communication and shall co-operate in the investigation of matter.
- The Accused shall furnish his address, email address and mobile number to Investigating Officers and the Hon'ble Chief Judicial Magistrate, Jamnagar, within 7 days and he shall not change it without permission of the Hon'ble Trial Court.
- The Accused shall surrender his passport

before this Court, if any, within 7 days of his release. If Accused is not holding any passport, then he shall file affidavit to that effect.

- The Accused shall not leave the Country without permission of this Court.
- The Accused shall co-operate in the investigation.
- The Accused shall not directly or indirectly make any inducement, threat or promise to any witness or person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court.
- The Accused shall not directly or indirectly tamper with evidence.
- The Accused shall maintain law and order.
- The Accused shall co-operate in conducting trial if offence / case is registered and shall remain present during trial on dates and whenever he is unable to attend the court due to unavoidable circumstances, he shall remain present through his advocate, without fail.
- It would be open to the concerned officer to file an application for remand if he considers it just and proper and the Ld. Magistrate would decide the same on it's own merits. It would be sufficient to treat

the Accused in judicial custody for the purpose of application for remand. If remand is requested and granted, then upon completion of remand, he shall be set free immediately, subject to compliance of other conditions of this Order.

- It is worthless to note that these observations and reasons are preliminary in nature only with a view to decide bail application and shall neither influence nor shall have binding effect to the Hon'ble Trial Court.
- The Yadi of this Order, is ordered to be sent to the concerned GST officer and the concerned Hon'ble Chief Judicial Magistrate, Jamnagar, for information and record.
- The pdf copy of this order be sent to Ld. P.P. - Mr. J. K. Bhanderi, so that he can send it to all concerned GST Officers / I.O.

Signed, pronounced and declared in the open Court on this 15th day of October, 2025, at Jamnagar.

Date : 15/10/2025
Place : Jamnagar.

(**Rasikkumar V. Mandani**)
3rd Addl. Sessions Judge
Jamnagar (Code : GJ00715)

/// AMS ///