

## Sanjay @ Sizer S/O Sohanlal Kirtaji Khatik Vs State Of Gujarat

**Court:** Gujarat High Court

**Date of Decision:** Feb. 1, 2022

**Acts Referred:** Code Of Criminal Procedure, 1973 " Section 438  
Indian Penal Code, 1860 " Section 114, 294(b), 323, 392, 394, 427, 506(2)  
Gujarat Police Act, 1951 " Section 135(1)

**Hon'ble Judges:** Ilesh J. Vora, J

**Bench:** Single Bench

**Advocate:** Sanjay Prajapati, Sureshkumar M Chaudhary, Manan Maheta

**Final Decision:** Allowed

### Judgement

Ilesh J. Vora, J

1. Rule. Learned APP waives service of notice of Rule on behalf of respondent-State.

2. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant-accused has prayed for anticipatory

bail in connection with the FIR being C.R. No.11191013211489 of 2021 registered with Krushnanagar Police Station, District: Ahmedabad City for the

offences under Sections 392, 394, 323, 427, 294(b), 506(2) and 114 of IPC and Section 135(1) of the Gujarat Police Act.

3. Learned advocate for the applicant submits that the applicant is innocent and he has been falsely implicated in the alleged offence. Custodial

interrogation of the applicant is not essential for the purpose of investigation.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent " State has opposed grant of anticipatory bail stating inter alia that

the allegations against the applicant are grave and serious in nature and custodial interrogation is necessary for further investigation of the case.

5. Having heard the learned advocates for the respective parties and perusing the material placed on record and taking into consideration the facts of

the case, it appears that Section 394 of IPC being added later on, as a result of which, the investigating officer intended to arrest the applicant herein.

So far other offences i.e. offence punishable under Sections 392, 323, 427, 294(b), 506(2) read with Section 114 of IPC and Section 135(1) of the

Gujarat Police Act are concerned, the applicant herein has been enlarged on regular bail by the sessions Court vide order dated 20.12.2021 passed in

Criminal Misc. Application No.8995 of 2021. Learned advocate for the applicant confined his relief to the offence punishable under Section 394 of

IPC. The report of investigating officer at page no.12 of this application would show that he sought permission of the Court for arrest of the applicant

herein on account of addition of Section 394 of IPC. Considering the dispute between the parties and the role attributed to the present applicant, case

is made out for grant of anticipatory bail for the offence punishable under Section 394 of IPC.

6. Considering the facts and circumstances of the case and the role attributed to the present applicant in the alleged offence, I find no reason to

decline pre-arrest bail to the applicant. In the result, the present application is allowed. The applicant is ordered to be released on bail in the event of

his arrest in connection with a FIR being C.R. No.11191013211489 of 2021 registered with Krushnanagar Police Station, District: Ahmedabad City on

his executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of like amount on the following conditions:

(a) shall cooperate with the investigation and make himself available for interrogation whenever required;

(b) shall remain present at concerned Police Station on 09.02.2022 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 till further orders;

(f) shall not leave India without the permission of the Trial Court and if having passport shall deposit the same before the Trial Court within a week;

and

(g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would

decide it on merits;

7. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The

applicant 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 applicant, 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.

8. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

9. Rule is made absolute to the aforesaid extent. Direct service is permitted.