



join the investigation. In view of the above, the applicant may be granted anticipatory bail.

3. Learned advocate for the applicant, on instructions, states that the applicant is ready and willing to abide by all the conditions including imposition of conditions with regard to powers of Investigating Agency to file an application before the competent Court for his remand. He would further submit that upon filing of such application by the Investigating Agency, the right of applicant accused to oppose such application on merits may be kept open.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent - State has opposed grant of anticipatory bail looking to the nature and gravity of the offence. Learned APP has stated that the present applicant is involved in the present offence and large-scale conspiracy hatched. It is submitted that Essential Commodities like wheat, rice, sugar, grams, Tuvar pulse and groundnut oil to the tune of Rs. 99,77,551/- are siphoned and in this regard, after the investigation, offence is registered. In this offence, there appears to be involvement of go-down keeper, Supervisor and transporter. It is alleged that they have forged the gate passes, stock register and siphoned the aforesaid amount and the applicant is facing charge of conspiracy. It is submitted that at the instance of the present applicant one Asvinbhai and other accused have siphoned away the said stock and thus, prima facie, involvement of the present applicant is revealed. Hence, custodial interrogation is required. Hence, he requested to dismiss the present application.

5. Having heard the learned advocate for the parties and perusing the investigation papers, it is equally incumbent upon the Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of the Hon'ble Apex Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail. Though at the stage of granting bail an elaborate examination of evidence and detailed reasons touching the merit of the case, which may prejudice the accused, should be avoided. I have considered the following aspects:

(1) present applicant is a 62 years old senior citizen;

(2) considering the fact that role of the present applicant is that he is involved in the door step delivery. During the said delivery, no active participation of the present applicant has been noticed as he has subletted the contract against the condition of contract, whatever, because of alleged breach of contract, he has to face consequences as per the condition of the contract. It appears that there is no direct involvement or role attributed to the present applicant and Asvin and Rahul is involved in the offence.

(3) This Court has taken care of custodial interrogation of applicant as right to seek remand of applicant is also kept open.

6. Considering the aforesaid aspects and the law laid down by the Hon'ble Apex Court in the case of *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of *Shri Gurubaksh Singh Sibbia*, (1980) 2 SCC 665 and also the decision in the case of *Sushila Aggarwal v. State (NCT of Delhi)*, (2020) 5 SCC 1, I am inclined to allow the present application.

7. In the result, the present application is allowed by directing that in the event of applicant herein being arrested in connection with the FIR being I-C.R. No. 11218015230021 of 2023 with Ranavav Police Station, Porbandar, the applicant shall be released on bail on furnishing a personal bond of Rs. 10,000/- (Rupees Ten Thousand Only) with one surety of like amount on the following conditions that he:

- (a) shall cooperate with the investigation and make himself available for interrogation whenever required;
- (b) shall remain present at the concerned Police Station on 30/09/2023 between 11.00 a.m. and 2.00 p.m. and the IO shall ensure that no unnecessary harassment or inconvenience is caused to the applicant;
- (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 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;

8. 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. 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.

9. At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while enlarging the applicant on bail.

10. Rule is made absolute to the aforesaid extent. Application is disposed of accordingly. Direct service is permitted.

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