

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL APPEAL (FOR ANTICIPATORY BAIL) NO. 480 of 2026****With****R/CRIMINAL APPEAL NO. 509 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Approved for Reporting	Yes	No

MENABEN MOHANBHAI RABARI**Versus****STATE OF GUJARAT & ANR.****Appearance:**

MR PR NANAVALTY with MR BS KHATANA(3671) for the appellants

DS AFF.NOT FILED (N) for the Opponent(s)/Respondent(s) No. 2

MR JAYDEVSIKH CHUDASAMA(13128) for the Respondent(s) No. 1

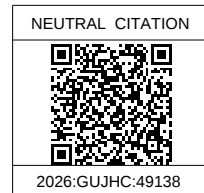
MR PREM D DAVE(10958) for the Opponent(s)/Respondent(s) No. 1

MS VRUNDA SHAH, APP for the Opponent(s)/Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 05/08/2026****COMMON JUDGMENT**

[1.0] ADMIT. Learned APP waives service of notice of Rule on behalf of respondent No.1 – State of Gujarat.

[2.0] Present appeals under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) (Amendment) Act, 2015 (hereinafter referred to as "Atrocity Act") challenging the orders dated 09.02.2026 passed by the learned Special Judge (GLGP), Additional Sessions Judge, Surat in Criminal Misc. Application Nos.637 and 639 of 2026 whereby the learned Special Judge rejected the application filed by the present appellants under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking anticipatory bail in connection with FIR being **C.R.**



No.11210064260112 of 2026 registered with **Godadara Police Station, Surat City** for the offences punishable under Sections 329(3) and 61 of the Bharatiya Nyaya Sanhita, 2023 (for short “BNS”) and Sections 4(3), 5(c) of the Gujarat Land Grabbing (Prohibition) Act (for short “Land Grabbing Act”).

[3.0] Learned advocate for the appellants submitted that the appellants have been falsely involved in the offence. The appellants do not have any past antecedent and nothing is required to be recovered or discovered and therefore, no custodial interrogation is required. Even otherwise, the appellants have restored the possession of the land and therefore, looking to the role of the appellants and nature of the allegations, the appellants are required to be granted anticipatory bail by imposing suitable terms and conditions.

[4.0] *Per contra*, learned APP appearing for the respondent – State has opposed the present appeal on the ground that offence is serious in nature and therefore also, if the appellants are granted bail then the possibility of tampering with the evidence cannot be ruled out. Further, there is bar under Section 18 of the Atrocity Act and therefore also, the present offence being serious one, he has requested to dismiss the present appeals.

[5.0] Learned advocate for the complainant has submitted that the parties have settled the dispute and appellants have restored the possession of the land in question and has no objection if the appellants are considered for anticipatory bail.

[6.0] 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.

[7.0] Considering the fact that the present appellants have restored the possession of land in question in favor of the complainant, which fact has been confirmed upon instructions by the learned advocate for the complainant and the fact that the appellants are not having any past antecedents and even considering the decision of the Hon'ble Supreme Court in the case of **Hitesh Verma vs. State of Uttarakhan** reported in **(2020) 10 SCC 710** as well as in the case of **Shajan Skaria vs. State of Kerala** reported in **2024 SCC OnLine (SC) 2249**, present appeals deserve consideration. Further, considering the nature of allegations and in view of the law laid down by the Hon'ble Apex Court in the case of **Prathvi Raj Chauhan vs. Union of India** reported in **(2020) 4 SCC 727**, as the allegation is *prima facie* not made out and as the appellants have already restored the possession of the land in question and are ready and willing to join the investigation and even



otherwise the appellants are protected since March, 2026, present appeals deserve consideration.

[8.0] I have also considered the law laid down by the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors.** reported in **(2011) 1 SCC 6941**, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of **Shri Gurubaksh Singh Sibbia & Ors.** reported in **(1980) 2 SCC 665** and also the decision in the case of **Sushila Aggarwal v. State (NCT of Delhi)** reported in **(2020) 5 SCC 1**, I am inclined to allow the present appeal.

[9.0] Hence, the present appeals are allowed. The orders dated 09.02.2026 passed by the learned Special Judge (GLGP), Additional Sessions Judge, Surat in Criminal Misc. Application Nos.637 and 639 of 2026 is hereby quashed and set aside and the appellants are ordered to be released on anticipatory bail in the event of their **arrest/appearance** in connection with FIR being **C.R. No.11210064260112 of 2026** registered with **Godadara Police Station, Surat City** on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) each with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that the appellants shall;

- (a) shall cooperate with the investigation and make herself available for interrogation whenever required;
- (b) **shall remain present at the concerned Police Station on 12/08/2026 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;
- (g) an order of anticipatory bail does not in any manner limit or restrict the rights or duties of the police or investigative agency, to investigate into the charges against the person who seeks and is granted pre-arrest bail;
- (h) It is open to the police or the investigating agency to move the learned trial Court for a direction under Section 483(3) of the BNSS to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial, etc.-

[9.0] At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while enlarging the appellants on bail.

[10.0] Appeals are allowed accordingly. Direct service is permitted.

(HASMUKH D. SUTHAR, J.)

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