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 while enlarging the applicant on bail.

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

Result:- Bail granted.

ABC 2019 (III) 370 GUJ
ACQUITTAL & BAIL CASES
HIGH COURT OF GUJARAT
(A.J.Desai, J.)
R/Criminal Misc Application No 14989 of 2019
Decided on 05 September 2019

PUNJABHAI CHEHORBHAI RABARI ***- Applicant(s).***

Versus

STATE OF GUJARAT ***- Respondent(s).***

Law Covered:- Code of Criminal Procedure, 1973 — Section 438 — Anticipatory Bail — Indian Penal Code, 1860 — Sections 114, & 306 — Gujarat Money Lenders Act, 2011 — Sections 33(1), 40 & 42 — Abetment to suicide by money lender — allegation of torture — The amount was availed by the deceased & instead of filing any criminal complaint for the alleged torture — the deceased committed suicide without making repayment — Anticipatory Bail granted. (Para 6)

Held:- Having heard the learned counsel for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused and in view of the fact that the amount was availed by the deceased and instead of filing any criminal complaint, if any, for the alleged torture by the applicants on the deceased, the deceased committed suicide without making repayment to the applicants and considering the punishment prescribed for the alleged offences, without discussing the evidence in detail, at this stage, I am inclined to grant anticipatory bail to the applicants. This Court has also taken into consideration the

law laid down by the Hon'ble Apex Court in the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra and Ors***. reported in ***(2011)1 SCC 694,*** wherein the Hon'ble Apex Court reiterated the law laid down by the Constitutional Bench in the case of ***Shri Gurubaksh Singh Sibbia & Ors.,*** reported in ***(1980)2 SCC 565.*** (Para-6)

Counsel:- ***For Applicant(s):*** *Mr. Kumar H Trivedi, Adv.*
For Respondent(s): *Ms. Krina Calla, Adv.*

Cases Referred:-

1. *Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors., [2011] 1 SCC 6941 (Para-6)*
2. *Shri Gurubaksh Singh Sibbia & Ors., (1980) 2 SCC 665, (Para-6)*

ORDER

A.J.DESAI, J.: - 1. Heard Mr. Kumar Trivedi, learned advocate for the applicants and Ms. Krina Calla, learned Additional Public Prosecutor for the respondent-State.

2. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant original accused have prayed to release them on anticipatory bail in case of their arrest in connection with the FIR being **C.R. No.I72 of 2019** registered with **Himatnagar 'A' Division Police Station, District Sabarkantha** for the offences punishable under Sections 306 and 114 of the Indian Penal Code, 1860 and Sections 33(1), 40 and 42 of the Gujarat Money Laundering Act, 2011.

3. Mr. Kumar Trivedi, learned advocate for the applicants submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. Besides, the applicants are available during the course of investigation and will not flee from justice. In view of the above, the applicants may be granted anticipatory bail.

Learned advocate for the applicants on instructions states that the applicants are 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 further submits that upon filing of such application by the Investigating Agency, the right of applicants-accused to oppose such application on merits may be kept open.

4. Learned Additional Public Prosecutor appearing on behalf of the respondentState has opposed grant of anticipatory bail looking to the nature and gravity of the offence.

5. I have considered the allegations leveled against the present applicants in the FIR and perused the papers of investigation and considered the role played by the applicants.

6. Having heard the learned counsel for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused and in view of the fact that the amount was availed by the deceased and instead of filing any criminal complaint, if any, for the alleged torture by the applicants on the deceased, the deceased committed suicide without making repayment to the applicants and considering the punishment prescribed for the alleged offences, without discussing the evidence in detail, at this stage, I am inclined to grant anticipatory bail to the applicants. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of ***Siddharam Satlingappa Mhetre v. State of Maharashtra and Ors***. reported in ***(2011)1 SCC 694,*** wherein the Hon'ble Apex Court reiterated the law laid down by the Constitutional Bench in the case of ***Shri Gurubaksh Singh Sibbia & Ors.,*** reported in ***(1980)2 SCC 565.***

7. Learned counsel for the parties do not press for further reasoned order.

8. In the result, the present application is allowed by directing that in the event of applicants herein being arrested pursuant to FIR being **C.R. No.I72 of 2019** registered with **Himatnagar 'A' Division Police Station, District Sabarkantha**, the applicants shall be released on bail on furnishing a personal bond of **Rs.10,000/each (Rupees Ten Thousand Only)** with one surety of like amount, on the following conditions:

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

(b) shall remain present at the concerned Police Station on 12/09/2019 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 or till further orders;

(f) shall not leave India without the permission of the Court and, if having passports shall surrender the same before the Trial Court within a week.

9. Despite this order, it would be open for the Investigating Agency to file an application for police remand of the applicants to the competent Magistrate, if they thinks it just and proper and learned Magistrate would decide it on merits. The applicants 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 applicants, 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.

10. At the trial, the Trial Court shall not be influenced by the *prima facie* observations made by this Court while enlarging the applicants on bail. Rule is made absolute accordingly. The present application is disposed of accordingly.

Direct service is permitted.

***Result*:-** Anticipatory Bail granted.