

(2024) 01 GUJ CK 0094

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Successive Regular Bail - After Chargesheet) No. 1134 Of 2024

Abdulkhan Sahebkhani Pathan

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 19-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Gujarat Animal Preservation Act, 1954 — Section 5, 6(B), 8(2), 8(4)
Indian Penal Code, 1860 — Section 429

Citation : (2024) 01 GUJ CK 0094

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Aftabhusen Ansari, Jirga Jhaveri

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

[1] RULE. Learned Additional Public Prosecutor waives service of notice of Rule on behalf of respondent - State.

[2] The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being C.R.No.11204021230554 of 2023 registered with the Dakor Police Station, Kheda of the offence punishable under Sections 5, 6(B), 8(2), 8(4) and 10 of the Gujarat Animal Preservation Act and under Section 429 of the Indian Penal Code.

[3] Learned advocate appearing on behalf of the applicant submits that present application is preferred after submission of charge-sheet and investigation has already been completed and applicant was arrested on 29.10.2023. It is also submitted that considering the role attributed by the applicant - accused at the time of commission of crime as well as penal provisions mentioned in statute, bail application of the applicant may be entertained by imposing suitable

conditions.

[4] Learned APP appearing on behalf of the respondent-State has objected present bail application with vehemence and submitted that role of the present applicant accused is clearly spelt-out from the papers of the charge-sheet and therefore, bail application of the present applicant may not be considered.

[5] Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

[6] I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. This Court is of the view that discretion is required to be exercised in favour of the present applicant for regular bail as the present application is preferred after submission of charge-sheet and investigation has already been completed and applicant was arrested on 29.10.2023.

[7] This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation, reported in [2012]1 SCC 40 as well as in case of Satender Kumar Antil v. Central Bureau of Investigation & Anr. reported in (2022)10 SCC 51.

[8] In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

[9] Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with FIR being C.R.No.11204021230554 of 2023 registered with the Dakor Police Station, Kheda, on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

[a] not take undue advantage of liberty or misuse liberty;

[b] not act in a manner injuries to the interest of the prosecution;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on alternate Monday of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present address of residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;

[10] The authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with law.

[11] At the trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.

[12] The present application stands allowed accordingly. Direct service is permitted.