(2015) 03 GUJ CK 0031

In the Gujarat High Court

Case No : Criminal Misc. Application (for Regular Bail) No. 2191 of 2015

Afroz Mohd. Hasan Fatta APPELLANT

Vs

State of Gujarat RESPONDENT

Date of Decision : 05-03-2015

Acts Referred:

Constitution of India, 1950 — Article 21
Penal Code, 1860 (IPC) — Section 109, 120-B, 420, 465, 467
Prevention of Corruption Act, 1988 — Section 13(2), 13(i)(d), 2

Citation : (2015) 03 GUJ CK 0031

Hon'ble Judges : J.B. Pardiwala, J.

Bench : Single Bench

Judgement

J.B. Pardiwala, J.—This is an application filed by an accused for regular bail in connection with C.R. No. I-16 of 2014 registered with the DCB Police Station, Surat of the offence punishable under Section 120-B, 420, 465, 467, 468, 471, 477-A of the Indian Penal Code.

2. It appears from the materials on record that the applicant herein was arrested on 20th August, 2014. On completion of the Investigation the charge-sheet was filed on 15th November, 2014. The applicant prayed for bail before the learned Sessions Court at Surat. The learned 7th Additional District and Sessions Judge, Surat vide order dated 24th December, 2014, rejected the bail application.

3. Being dissatisfied, the applicant has come up with the present application.

Case of the Prosecution.

4. On 11th April, 2014, one Shri Utpal D. Dave, serving as a Cluster Branch Manager in the ICICI Bank lodged the First Information Report, inter alia state as under:-

"My name is Utpal Devendrabhai Dave Aged about: 40 years, Occupation: Service, residing at: B-104, Sarjan Complex, Near TGB Restaurant Circle, L.P. Savani Road, Adajan, Surat native of 3-Jashodaya, Ajaypark, Vidyanagar Road, B/

h Big Bazar, Anand, Mobile No. 99250-24651.

Hereby dictate in person the facts of my complain that, I am living at Surat at the above address and am serving in ICICI Bank since 2006. At present I am serving as Cluster Branch Manager in ICICI Bank since 2009 at Shyam Chambers, Opp. Sub Jail, Surat. Our Corporate Office is at Bandra Kurla Complex, Bandra East, Mumbai. I have to supervise Ringroad Branch, Textile Market Branch, Ghoddod Road Branch, Udhna Branch and Sachin GIDC Branch etc. as Cluster Branch Manager as decided by our Regional Office, the customer service, Customer Operations and other business development related work.

M/s. R.A. Distributors Pvt. Ltd. having its registered office at 6/1943, Office No. 303, Cabin No. 1, Third Floor, Navkar Building, Opp. Kabir Mandir, Mahidharpura, Surat Whose Directors are [1] Shailesh Rameshbhai Patel Resident of: Room No. 32, Second Floor, 9/19 B, Dr. Vegas Street, Cavell Cross Lane, Mumbai-400002 [2] Aniket Ashok Ambekar Resident of: 872, GS Subedar Ramji Ambekarnagar, A.G. Khan Road, Worli, Mumbai - 400018 had opened a Current Account on 12.12.2013 in ICICI Bank at Shyam Chambers, Opp. Sub Jail, Surat being A/c No. 624605501750. As this company was doing the business of importing cut and polished diamonds from abroad and was selling it in local markets of Surat and Mumbai, hence to make payment to the party from whom diamonds were imported they had opened the above account in our bank. This company had started its transactions since the day of opening of their account. This company used to make payment to the party from whom diamonds were imported by producing original bill of Entries (BOES) which was considered the main proof of import as per rules of RBI and other necessary documents. In this way this company made payment to the parties through our bank to foreign parties for the diamonds they had imported.

According to the guidelines of Reserve Bank of India (RBI), the BOES, submitted by client for payment of his goods, copies of some of the BOES are to be sent to Customs Department for verification. Hence Assistant Manager of our Bank Balkrishna Upadhyay had sent 20 - BOES to Deputy Commissioner of Diamond Bourse, Customs Department, Surat, with a letter of Bank No. RBG/6246/FY 2014/001 out of the BOES submitted by M/s. R.A. Distributors Pvt. Ltd. Company in our bank. M.S. Das Assistant Commissioner Diamond Bourse, Surat Customs Department, Surat had replied on 3.4.2014 vide letter No. OA 2-VIII/CUS/ICQ (SHB)/65/2013-14 Surat in which it was stated that, comparing the BOES sent for verification with the BOES record, prima facie it appeared that there were differences in 17 BOES record, prima facie it appeared that there were differences in 17 BOES according to record of Customs Department and all these following 17-BOES were bogus and fraudulent hence it was urged by the Customs Department to take legal steps regarding them.

As shown in the above table, bill of entries submitted by M/s. R.A. Distributors Pvt. Ltd. were forged and fraudulent and Customs Department had urged us to undertake legal proceedings, hence we consulted higher officials of ICICI Bank limited and discussed with our legal department who informed me that as a reputed bank it was our responsibility towards the society hence legal steps may be taken against Directors of M/s. R.A. Distributors Pvt. Ltd. Company, hence I had prepared a complain on 5.4.2014 on the letter head of ICICI Bank along with the copies of 17 BOES submitted in our bank by M/s. R.A. Distributors Pvt. Ltd. and along with the correspondence with Customs Department, Surat and had given by complain in Athwa Lines Police Station with respect to which I was called at D.C.B. Police Station, so I have come to give my complaint today on behalf of bank.

Directors of M/s. R.A. Distributors Pvt. Ltd. [1] Shailesh Rameshbhai Patel resident of: Room No. 32, Second Floor, 9/19/B, Dr. Vegas Street, Cavell Cross Lane, Mumbai - 400002 [2] Aniket Ashok Ambekar Resident of: 872, GS Subedar Ramji Ambekarnagar, A.G. Khan Road, Worli, Mumbai - 400018 with the help of each other with the intention of committing offence had conspired and had prepared 17 forged and fraudulent bill of entries in the name of M/s. R.A. Distributors Pvt. Ltd. and had used it as genuine and between 13.12.2013 to 24.2.2014 had produced it in ICICI Bank at Shyam Chambers, Opp. Sub Jail, Ringroad, Surat and had transferred Rs. 104,60,99,082/- to [1] Mabrook Trading FZE Dubai [2] Nippon Incorporation Ltd. Hong Kong [3] Corneil Trading (HK) Ltd. Hong Kong [4] Al Almas FZE Ltd. Hong Kong [5] Al Saba General Trading FZE Dubai [6] Daimur Gems Jewellery (LLC) Ltd. Hong Kong and thereby had cheated with Indian Government and had committed offences. So this is my complain to take legal steps which is true and correct."

5. It appears that the case of the prosecution is that the applicant herein and the co-accused hatched a conspiracy and as a part of the conspiracy floated bogus companies by appointing several persons as the Directors. After opening the accounts between 13th December, 2013 and 24th February, 2014, seventeen bogus and forged bank Bills of entry were produced in the bank and thereby remitted a huge amount to the tune of Rs. 1,04,60,99,082/- to Dubai and Hongkong.

6. It is the case of the prosecution that the conspiracy was hatched in the office premises of one Madanlal Jain a co-accused. The Bills of Entry produced for the remittance of the amount were forged, and signatures on the Bills of entry were also forged. The applicant herein is alleged to have visited the office of Madanlal Jain (co-accused). Huge amount was sent from Mumbai to Surat through Couriers, more particularly, through the employees of the applicant herein. The applicant is alleged to have received huge amount, and the same was credited in his account as well as in the account of his brother.

7. Mr. P.M. Thakkar, the learned senior advocate appearing on behalf of the applicant-accused vehemently submitted that the investigation is over and the charge-sheet has been filed. He submitted that practically all the co-accused, except the applicant herein and one Madanlal Jain, are still in custody. He submitted that the offence is triable by the Magistrate. He further submitted that

one Sunil Agrawal a co-accused, who is alleged to have played a major role in opening the fake account from which the funds were transferred abroad, was released on bail by a co-ordinate Bench of this Court. He further pointed out that one another co-accused, namely Ratan Agrawal, who had opened the fake account along-with Sunil Agrawal, with bogus signatures of the Directors, has also been ordered to be released on bail by the Sessions Court. He pointed out that one another prime co-accused, namely Bilal Haroon Gilani, who played a major role in transferring the amount from Mumbai to Surat has also been ordered to be released on bail by the Sessions Court. He submitted that the case of the applicant herein is on the same footing with the case of Bilal and Sunil Agrawal.

8. Mr. Thakkar submitted that the applicant was taken on Police remand for a period of nine days and nothing incriminating was recovered from him. In such circumstances, referred to above, Mr. Thakkar prays that the application merits consideration and the applicant may be ordered to be released on bail, subject to terms and conditions.

9. This application has been vehemently opposed by Mr. Rawal, the learned Additional Public Prosecutor appearing for the State. He pointed out that although the case is magistrate triable yet is a very serious economic offence. A huge amount was fraudulently transferred to the foreign countries. He pointed out that in connection with the very same transaction, there is a prosecution against the applicant herein under the provisions of the Prevention of Money Laundering Act. Mr. Rawal pointed out that the applicant has not been released on bail in the case of money laundering. He further submitted that although some of the co-accused similarly situated have been released on bail, yet that by itself is no ground to release the applicant herein on bail. He submitted that having regard to the serious nature of the crime alleged, this application deserves to be rejected.

10. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for my consideration is whether the accused deserves to be released on bail or not.

11. Indisputably, the case on hand is one of criminal conspiracy. Prima facie it appears that as a part of the conspiracy, which was hatched, a huge amount was transferred to Dubai and Hongkong on the strength of fake Bills of Entry. Each of the accused has played his own role in the alleged conspiracy. It appears that one of the main accused persons Sunil Dipak Kumar Agrawal has been ordered to be released on regular bail by a co-ordinate Bench of this Court, vide order dated 19th November, 2014 passed in Criminal Misc. Application No. 15636 of 2014. I inquired with Mr. Rawal, the learned APP whether the State intends to challenge the order passed by the coordinate Bench before the higher forum. In reply, it was submitted that the State has accepted the order passed by the co-ordinate bench.

12. It also appears that one another co-accused namely Ratan Dipakkumar Agrawal has been ordered to be released on bail by the Sessions Court, vide order dated 1st January, 2015. While ordering the release of Ratan Dipakkumar Agrawal, the Sessions Court observed as under:-

"[8] Comparing the role of the applicant with the role of the co-accused Sunil Agrawal, it prima facie appears that the role of Sunil Agrawal is very serious than the role of the present applicant.

[8.1] Sunil Agrawal personally met the main accused Madanlal Jain and Afroz Fatta at the office of Madanlal Jain, situated in Panchratna Apartment at Mumbai. Further at the instance of the main accused Madanlal Jain. Sunil Agrawal started several companies and appointed directors of the companies and collected photographs, I.D. Proof, address proof etc. for bank accounts and thereafter opened the bank accounts and ultimately remitted huge amount to foreign countries. On the other hand the applicant just accompanied the account holders upto the ICICI bank. The Ld. A.P.P. failed to show that the applicant has fabricated any bogus or fake documents or made misrepresentation to the bank authority or took any monetary benefit. Even if it is presumed that the applicant participated the conspiracy, he is entitled for bail on the principal of parity as he has played less serious role than that of Sunil Agrawal who is released on bail by Hon''ble Gujarat High Court by the above referred order. Even considering the principle laid down by Hon''ble Supreme Court in the case of Sanjay Chandra (Supra) wherein the judgment in the case of Siddhram Satlingappa Mhetre Vs. State of Maharashtra and another is referred, the applicant should be released on bail with certain conditions. Further as per the observation made by Hon''ble Gujarat High Court in the case of Ramesh Batubhai Dabhi (Supra) this Court is being lower/subordinate court of the Hon''ble Gujarat High Court has to follow the principle of parity."

13. It also appears that one another co-accused who seems to have played a major role, namely Bilal Galani, has been ordered to be released on regular bail by the Sessions Court, vide order dated 2nd January, 2015. While ordering his release, the learned Sessions Jude made the following observations:-

"[9] Perusing the record, there are thousands of documents. The trial is not likely to conclude within short time. It would be pre-trial punishment, if the applicant is kept behind the bar. Most of the witnesses are bank officers, custom officers and police officers. Therefore, the applicant is not likely to tamper with prosecution witnesses. The applicant is a permanent residence of Surat and his presence is available during the trial and during the police investigation.

[10] The co-accused Sunil Agrawal who played active role in the alleged offence is released by Hon''ble Gujarat High Court by the order dated 19.11.2014 in Criminal Misc. Application (For regular bail) No. 15636/14. Therefore, on the ground of parity as held by Hon''ble Gujarat High Court in the case of Rameshbhai Batubhai (Supra) the applicant is entitled for bail. Even considering

the principle laid down and observations made by Hon''ble Supreme Court in the case of Sanjay Chandra (Supra) the applicant is entitled for bail."

14. Surprisingly, although the co-accused have been released on bail including Sunil Agrawal, yet the learned Sessions Judge refused to exercise his discretion in favour of the applicant herein by observing that the case of the applicant herein was distinguishable with the case of the present applicant. The learned Sessions Judge made the following observations:-

"[9] Perusing the material on record, it is prima facie reveled that the applicant and co-accused hatched conspiracy at the office of Madanlal Jain at Bombay who is the main accused. The co-accused Sunil Agrawal collected documents from so-called directors of five companies and opened accounts with the ICICI Bank, Ring Road Branch, Surat. Thereafter huge amount was sent from Bombay to Surat through courier service. Fake bills of entries were produced before the ICICI bank, Surat. Approximately more than 428 crores have been remitted to Dubai and Hong Kong through the account in the complainant Bank.

[10] From the police papers it is disclosed that the applicant and co-accused hatched conspiracy at the office of Madanlal Jain who is the main accused. At the instance of Madanlal Jain, Sunil Agrawal appointed several persons as directors of several companies and collected their photos, I.D. Proofs and address proofs etc, and opened accounts in ICICI Bank at Surat and thereafter producing fake bills of entry transferred crores of rupees to Dubai and Hong Kong. Even after filing the main charge sheet and two supplementary charge-sheets police investigation is still in progress and up till now it is revealed that the accused started several companies and firms at Surat in different names and opened bank accounts in ICICI and Axis bank and money transactions have made in different names. As per the affidavit I.O., it is stated that the accused have remitted Rs. 428,3734,350/- to Dubai and Hong Kong by now and the same is likely to increase with the further investigation. Even the call details (Data) collected by the I.O. indicates that all the accused were in contact with each other during the said illegal transactions. The accused have registered approximately 45 companies/firms still the registers of accounts have not been traced out.

[10.1] It appears that the applicant and co-accused have prima facie committed crime obviously to become rich overnight. If the applicant released on bail, the possibility can not be ruled out that the applicant shall tamper with the prosecution witnesses so as to dissuade them to give statement or deposition during the investigation and during the trial.

[11] During the investigation it is disclosed that the signature of custom officers made on fake bills of entries. When there is an allegation of conspiracy, every accused is equally liable for the main offence, further when there is conspiracy, personal presence or active role of any accused is not necessary i.e. certain facts regarding involvement of any accused may not be there on the record. It is a matter of evidence. From material on record, it is revealed that the applicant is

prima facie involved in the alleged offence. He has received huge amount in his account. The defense taken by the applicant regarding amount credited in his account is a matter of evidence.

[12] So far as the submission of parity is concerned, the same is not applicable to the applicant as role of the applicant is different from the accused Sunil Agrawal who is released on bail. There is nothing on record to show that the co-accused Sunil Agrawal has received any monetary benefit. As against this the present applicant has received approximately Rs. 428 Crore from the above referred transactions.

15. I am unable to understand the line of reasoning adopted by the learned Judge more particularly in the wake of the finding that there was nothing on record to show that the co-accused Sunil Agrawal had received any monetory benefit. No person would indulge in such type of activities without any monetory benefit. On what basis such finding is recorded is not known. As observed earlier, each accused has played his own role and all are part and parcel of the conspiracy.

16. I do not intend to go into the merit of the matter. I am persuaded to exercise my discretion in favour of the applicant herein solely on the ground that three of the main accused persons have been released on bail. One of the co-accused has been released by a co-ordinate bench of this Court and the other two accused are released by the Sessions Court.

17. The Investigation is over and the charge-sheet has been filed. The offence is triable by the Magistrate. The entire case of the prosecution is based on documentary evidence. Many witnesses would be examined in the course of the trial and the trial would take a considerable long period of time before it is concluded.

18. I may quote some of the observations made by the Supreme Court in the Case of Sanjay Chandra Vs. CBI, :-

"13. The appellants are facing trial in respect of the offences under Sections 420-B, 468, 471 and 109 of Indian Penal Code and Section 13(2) read 2 with 13(i)(d) of Prevention of Corruption Act, 1988. Bail has been refused first by the Special Judge, CBI, New Delhi and subsequently, by the High Court. Both the courts have listed the factors, on which they think, are relevant for refusing the Bail applications filed by the applicants as seriousness of the charge; the nature of the evidence in support of the charge; the likely sentence to be imposed upon conviction; the possibility of interference with witnesses; the objection of the prosecuting authorities; possibility of absconding from justice.

14. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it

can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, ''necessity'' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

15. In the instant case, as we have already noticed that the "pointing finger of accusation" against the appellants is ''the seriousness of the charge''. The offences alleged are economic offences which has resulted in loss to the State Exchequer. Though, they contend that there is possibility of the appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor: The other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the Constitutional Rights but rather "recalibration of the scales of justice." The provisions of Cr.P.C. confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardize the personal liberty of an individual. This Court, in Kalyan Chandra Sarkar etc. Vs. Rajesh Ranjan @ Pappu Yadav and Another, , observed that "under the criminal laws of this country, a person accused of offences which are non-bailable, is liable to be detained in custody during the pendency of trial unless he is enlarged on bail in

accordance with law. Such detention cannot be questioned as being violative of Article 21 of the Constitution, since the same is authorized by law. But even persons accused of non-bailable offences are entitled to bail if the Court concerned comes to the conclusion that the prosecution has failed to establish a prima facie case against him and/or if the Court is satisfied by reasons to be recorded that in spite of the existence of prima facie case, there is need to release such accused on bail, where fact situations require it to do so."

16. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It is also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution. In the case of State of Rajasthan, Jaipur Vs. Balchand alias Baliay, , this Court opined:

"2. The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative.

3. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also the heinousness of the crime. Even so, the record of the petitioner in this case is that, while he has been on bail throughout in the trial court and he was released after the judgment of the High Court, there is nothing to suggest that he has abused the trust placed in him by the court; his social circumstances also are not so unfavourable in the sense of his being a desperate character or unsocial element who is likely to betray the confidence that the court may place in him to turn up to take justice at the hands of the court. He is stated to be a young man of 27 years with a family to maintain. The circumstances and the social milieu do not militate against the petitioner being granted bail at this stage. At the same time any possibility of the absconsion or evasion or other abuse can be taken care of by a direction that the petitioner will report himself before the police station at Baren once every fortnight."

25. Coming back to the facts of the present case, both the Courts have refused the request for grant of bail on two grounds:- The primary ground is that offence alleged against the accused persons is very serious involving deep rooted planning in which, huge financial loss is caused to the State Exchequer; the secondary ground is that the possibility of the accused persons tempering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property, forgery for the purpose of cheating using as genuine a forged document. The punishment of the offence is punishment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in

determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration. The grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court, whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in attendance thereon whenever his presence is required. This Court in Gurcharan Singh and Others Vs. State (Delhi Administration), , observed that two paramount considerations, while considering petition for grant of bail in non-bailable offence, apart from the seriousness of the offence, are the likelihood of the accused fleeing from justice and his tampering with the prosecution witnesses. Both of them relate to ensure of the fair trial of the case. Though, this aspect is dealt by the High Court in its impugned order, in our view, the same is not convincing.

26. When the under-trial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is: whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State Exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet. This Court, in the case of State of Kerala Vs. Raneef, , has stated:-

"15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken''s novel A Tale of Two Cities, who forgot his profession and even his name in the Bastille."

28. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to ally the apprehension expressed by CBI."

19. In the result, this application is allowed. The applicant-accused is ordered to be released on bail in connection with the C.R. No. I-16 of 2014 registered with the DCB Police Station, Surat on executing a personal bond of Rs. 5,00,000/- (Rupees Five Lac Only) with one surety of the like amount each 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 every Monday between 10.00 a.m. and 2.00 p.m.

[f] furnish latest 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 the Court;

20. 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 learned 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. At the trial, learned 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. Rule is made absolute to the aforesaid extent. Direct service is permitted.

