

(2019) 12 GUJ CK 0110

In the Gujarat High Court

Case No : R/Criminal Misc. Application No. 22874 Of 2019

Aiyub Yusuf Limbada

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 20-12-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 143, 147, 148, 149, 307, 323, 324, 325
Arms Act, 1959 — Section 25(1)(a), 25(1-b)(a), 27(1)
Gujarat Police Act, 1951 — Section 135

Citation : (2019) 12 GUJ CK 0110

Hon'ble Judges : A.J.Desai, J

Bench : Single Bench

Advocate : P P Majmudar, LB Dabhi

Final Decision : Allowed

Judgement

A.J.Desai, J

1. This successive bail application is filed under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with an offence

being C.R. No.IA55 of 2019 registered with Ankleshwar Rural Police Station, District Bharuch for the offences under Sections 143, 147, 148, 149,

323, 324, 325, 307 of the Indian Penal Code, 1860; Sections 25(1)(a), 25(1-b)(a) and 27(1) of the Arms Act and Section 135 of the Gujarat Police

Act.

2. Learned advocate appearing on behalf of the applicants submits that considering the nature of offence, the applicants may be enlarged on regular

bail by imposing suitable conditions.

3. Learned Additional Public Prosecutor appearing on behalf of the

respondent—State has opposed grant of regular bail looking to the nature and gravity of the offence.

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

5. I have heard learned advocates appearing on behalf of the respective parties and considered the allegations levelled against the applicants and the role played by the applicants. I have also considered the fact that injured are already discharged from the Hospital.

6. In the facts and circumstances of the case and considering the nature of allegations made against the applicants in the FIR and considering the fact

that investigation is over and charge—sheet is filed and considering the fact that injured have been discharged from the hospital, 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 applicants on regular bail on

appropriate terms and conditions and on condition that the applicants shall not enter Bharuch District for a period of six months except for the purpose

of marking presence or attending the trial. Hence, the present application is allowed and the applicants are ordered to be released on regular bail in

connection with an offence being C.R. No.IA55 of 2019 registered with Ankleshwar Rural Police Station, District Bharuch, on executing a personal

bond of Rs.10,000/— each (Rupees Ten thousands only) with one surety of the like amount to the satisfaction of the learned Trial Court and subject to

the conditions that they shall;

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

[b] not act in a manner injurious 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 for a period of two years and thereafter on any day of 1st week of each

English calendar month, till the trial is over;

[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 this Court;

[g] shall not enter into Bharuch District for a period of six months except for marking presence and attending trial and after entering into Bharuch

District, shall mark presence on every Monday for a period of six months;

7. The Authorities will release the applicants only if they are 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 applicants on bail. Rule is made absolute to the aforesaid extent.

Direct service is permitted.