

(2024) 05 GUJ CK 0093

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No.
9214 Of 2024

Ajay Maruti Said

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 22-05-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Gujarat Prohibition Act, 1949 — Section 65(a), 65(e), 98(2), 116(C)

Citation : (2024) 05 GUJ CK 0093

Hon'ble Judges : Pranav Trivedi, J

Bench : Single Bench

Advocate : Vasimraja A Kureshi, Jay Mehta

Final Decision : Allowed

Judgement

Pranav Trivedi, J

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

[2] The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR No.11197025240262 of 2024 registered with Karjan Police Station, District: Vadodara Rural for the offences under Sections 65(a), 65(e), 98(2), 116(C) of the Prohibition Act.

[3] Learned advocate appearing for the applicant has submitted that the present applicant is an innocent person and is falsely implicated in the present complaint and he is in jail since 26.02.2024. It is also submitted that the present applicant was not aware about the illegal liquor stored in the vehicle and the present applicant was only driver of the vehicle. It is further submitted that none of the ingredients of any of the sections are attracted against the applicant. It is also submitted that the applicant is having his permanent residence at the address

mentioned in the cause title of the present applicant and the applicant is not likely to abscond or flee away and the presence of applicant for the purpose of trial is secured. It is further submitted that investigation is over and charge-sheet is submitted and therefore, now there is no possibility of tampering with the evidence.

[3.1] Learned advocate for the applicant submits that considering the nature of allegations, role attributed to the applicant, the applicant may be enlarged on regular bail by imposing suitable conditions.

[4] 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.

[5] I have heard learned advocates appearing on behalf of the respective parties. Learned advocates appearing on behalf of the respective parties do not invite reasoned order.

[6] This court has considered the following aspects:

(a) As per catena of decisions of Hon'ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. prima facie case, availability of applicant at the time of trial and tampering and hampering with the witnesses by the accused.

(b) That the investigation is over and charge-sheet has been submitted and therefore, now there is no possibility of the tampering with the evidence.

(c) That the learned advocate for the applicant has submitted that the applicant is not likely to flee away.

(d) That the applicant is in custody since 26.02.2024.

(e) The law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. C.B.I. Reported in (2012) 1 SCC 40.

[7] In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, I am of the opinion that discretion is required to be exercised in favour of the applicant and enlarged the applicant on regular bail. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an offence being FIR No.11197025240262 of 2024 registered with Karjan Police Station, District: Vadodara Rural for the offences under Sections 65(a), 65(e), 98(2), 116(C) on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that the applicant 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 of each English calendar month for a period of three months and thereafter, alternate Monday for a period of six months, between 11:00 a.m. and 2:00 p.m.;

[f] furnish latest and permanent 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;

[8] 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.

[9] Rule is made absolute to the aforesaid extent. Direct service is permitted.