

(2023) 12 GUJ CK 0067

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 14627 Of 2023

Ajaybhai @ Badshah Anubhai Mer

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 19-12-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 323, 324, 326, 337, 504, 506(2)
Gujarat Police Act, 1951 — Section 135

Citation : (2023) 12 GUJ CK 0067

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : AB Gateshaniya, Ashmita Patel,

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with C.R.No.11211009230159 of 2023 registered with Chotila Police Station, District Surendranagar for the offence punishable under Sections 326, 324, 323, 337, 504, 506(2) and 114 of the Indian Penal Code and Section 135 of the Gujarat Police Act.

2. Learned advocate appears for the applicant submits that the so-called incident has taken place on 17.04.2023 and FIR has been registered on 18.04.2023. The applicant accused has been arrested on 11.05.2023 and since then he is in judicial custody. Investigation is already completed and after submission of charge-sheet, present bail application is preferred. It is further submitted that this is a case of cross complaint and other co-accused have been enlarged on bail by the learned trial Court and therefore considering the principle of parity, applicant may be enlarged on bail by imposing suitable terms and conditions.

3. Learned APP has objected present bail application with vehemence and submitted that considering the role played by the applicant accused at the time of commission of crime and the gravity of the offence, he may not be enlarged on bail.

4. I have perused the police papers and other documents produced by the applicant accused along with the memo of the application. It is found out from the record that the applicant accused has been arrested on 11.05.2023 and since then he is in judicial custody. Investigation is already completed and after submission of charge-sheet, present bail application is preferred. It is also found out from the record that this is a case of cross complaint and other co-accused have been enlarged on bail by the learned trial Court and therefore considering the totality of the facts of the present case, I am inclined to enlarge the applicant on bail.

5. 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.

6. 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.

7. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with

C.R.No.11211009230159 of 2023 registered with Chotila Police Station, District Surendranagar 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 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] not enter into the territorial limits of Mehsana, Patan, Banaskantha, Sabarkantha, Ahmedabad, Gandhinagar, Surendranagar and Baroda District till the completion of trial except for marking presence and attending the Court proceedings.

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

[g] 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;

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 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.

9. 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.

10. The present application stands allowed accordingly. Direct service is permitted.