

(2024) 03 GUJ CK 0018

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - Before Chargesheet)
No. 2671 Of 2024

Ajeshbhai Muljibhai Vasava & Anr

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-03-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Bombay Animal Preservation Act, 1948 — Section 5, 6, 8, 10
Gujarat Animal Preservation Act, 1954 — Section 6(A), 8
Prevention of Cruelty to Animals Act, 1960 — Section 11(1)(A), 11(1)(D), 11(1)(E),
11(1)(H), 11(1)(K), 38(3)

Citation : (2024) 03 GUJ CK 0018

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Viral V Dave, Mohammed Sehjad G. Shaikh, Monali H Bhatt

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. Rule. Learned APP waives service of notice of Rule for and 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 C.R.No.112140022400010 of 2024 registered with Umarpada Police Station, District Surat Rural for the offence punishable under Sections 5, 6, 8 and 10 of the Mumbai Animal Protection Act, under Sections 6(A) and 8 of the Gujarat Animal Protection Amendment Act and under Sections 11(1)(A),(D),(E),(H),(K) and 38(3) of the Prevention of Cruelty to Animals Act.

3. Learned advocate appearing on behalf of the applicants submits that considering the nature of the offence, the applicants may be enlarged on regular bail by imposing suitable conditions. It is submitted that applicants have been

arrested on 08.01.2024 and since then they are in judicial custody; It is submitted that applicants have been arrested by the police when they were transporting the cows and cow progenies in the vehicle at a particular place and thereafter during the course of search, it was found out that the cows and cow progenies were kept in unhygienic condition and tied with in atrocious manner and therefore they have been arrested. It is alleged that the said cows were transported for the purpose of slaughtering but in fact a certificate was issued by the office of Kakadava (Mandvi) Doodh Utpadak Sahkari Mandli Ltd. specifically stating that the said cows and calves were handed over to the applicants accused for the purpose of agricultural activities. Thus, considering the aforesaid factual aspects, applicants may be enlarged on bail.

4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

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 applicants and the role played by the applicants. It is found out from the record that applicants have been arrested on 08.01.2024 and since then they are in jail. The investigation is substantially over. It is alleged that applicants were transporting the cows and calves in the vehicle at a particular place and thereafter during the course of search, it was found out that the cows and calves were kept in unhygienic condition and tied in atrocious manner. It is alleged that the said animals were transported for the purpose of slaughtering. However, it is found out from the record that a certificate was issued by the office of Kakadava (Mandvi) Doodh Utpadak Sahkari Mandli Ltd. specifically stating that the said cows and calves were handed over to the applicants accused for the purpose of agricultural activities. Thus, considering the aforesaid factual aspects, I am inclined to consider this application.

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 applicants 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 applicants on regular bail.

9. Hence, the present application is allowed and the applicants are ordered to be released on regular bail in connection with C.R.No.112140022400010 of 2024 registered with Umarpada Police Station, District Surat Rural, on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand only) each with one surety of the like amount to the satisfaction of the 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 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 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 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 applicants on bail.

12. The present application stands allowed accordingly. Rule is made absolute. Direct service is permitted.