

(2024) 02 GUJ CK 0065
In the Gujarat High Court

Case No : R/Criminal Appeal (For Anticipatory Bail) No. 2831 Of 2023

Akash Ramanji Bhil (Marvadi)

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 14-02-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 14A(2)
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 506(2)

Citation : (2024) 02 GUJ CK 0065

Hon'ble Judges : J. C. Doshi, J

Bench : Single Bench

Advocate : Kirit R Chaudhari, Vasant R Barot, AV Patel

Final Decision : Allowed

Judgement

J. C. Doshi, J

1. Admit. Learned A.P.P. waives service of notice of admission for the respondent – State. Though served, learned Advocate Mr.Vasant Barot is absent.

2. By way of the present appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the 'Act, 1989'), the appellant – original accused challenges the order dated 19/12/2023 passed in CR.MA No.678 of 2023 by the learned 2nd Additional District & Sessions Judge, Sabarkantha at Idar, whereby, the learned Court below refused to grant anticipatory bail under Section 439 of the Code of Criminal Procedure to the appellant in connection with the F.I.R. being CR No.11209020231330 of 2023 registered with Idar Police Station.

3. Heard learned Advocate for the appellant and learned APP for the State.

4. Learned Advocate for the appellant – accused would referring to Annexure – C submit that both the petitioners and first informant belongs to SC & ST and

therefore the case under the Atrocities Act is not made out. Learned advocate for the petitioner submits that considering the nature of allegations, role attributed to the petitioners, the petitioners may be enlarged on anticipatory bail by imposing suitable conditions.

5. Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of anticipatory bail looking to the nature and gravity of the offence.

6. Having heard learned Advocates appearing for the respective parties and considering the well famous parameters for grant or refusal of bail i.e. balancing personal liberty and investigational power of police; freedom of individual vis-a-vis security of State; and balance between individual liberty and interest of society etc., alongwith nature of accusation, nature of evidence in support of the accusation; severity of the punishment which conviction will entail; I am inclined to exercise the discretion in favour of the appellants-accused inter alia on the ground that prima facie the contentions raised by the appellants appears to be established as both the appellants and first informant belongs to SC & ST, no case under the Atrocities Act is made out in view of law laid down in case of Prithviraj Chauhan vs Union of India, reported in (2020) 4 SCC 727. Insofar as the remaining offence is concerned, except Section 506(2) of the IPC, all are bailable. On reading the FIR, prima facie the allegations of criminal intimidation is missing from the FIR and thus no case for custodial interrogation is made out.

Thus, the present appeal deserves consideration.

7. This Court while exercising discretion in favour of the petitioner has taken into consideration law laid down by the Apex Court in the case of Siddharam Satlingappa Mhetre v/s. State of Maharashtra and Ors. [2011] 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitutional Bench in the the case of Shri Gurubaksh Singh Sibbia & Ors. v/s. State of Punjab (1980) 2 SCC 665. This Court has also taken into consideration law laid down in the case of Sushila Agarwal v/s. State (NCT of Delhi [(2020) 5 SCC 1].

8. In the result, the present petition is allowed by directing that in the event of applicant herein being arrested pursuant to FIR registered as CR No.11209020231330 of 2023 registered with Idar Police Station the petitioners shall be released on bail on furnishing a personal bond of Rs. 10,000/- (Rupees Ten Thousand only) with one surety of like amount on the following conditions that the petitioner :

(a) shall cooperate with the investigation and make himself available for interrogation whenever required;

(b) shall remain present at concerned Police Station on 4.3.2024 between 10.00 a.m. and 4.00 p.m.;

(c) shall not directly or indirectly make any inducement, threat or promise to any

person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

(d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

(e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change residence till the final disposal of the case till further orders;

(f) shall not leave India without the permission of the concerned trial court and if having passport shall deposit the same before the concerned trial court within a week; and

9. If breach of any of the above conditions is committed by the petitioner, the concerned learned Judge will be free to take appropriate action in the matter. 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, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the petitioner on bail.

The appeal succeeds. Direct service is permitted.