

(2023) 03 GUJ CK 0006

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 4289 Of 2023

Anubhai Pithabhai Sangada

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 02-03-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114, 429

Prevention Of Cruelty To Animals Act, 1960 — Section 11(1)(a)(d)(f)

Gujarat Animal Preservation Act, 1954 — Section 5(1)(A), 6(A)(1),8(4)

Citation : (2023) 03 GUJ CK 0006

Hon'ble Judges : Samir J. Dave, J

Bench : Single Bench

Advocate : N.S.Jethva, Hardik Mehta

Final Decision : Allowed

Judgement

Samir J. Dave, J

Rule returnable forthwith. Leaned APP waives service of notice of rule for and on behalf of the respondent-State.

The present successive bail application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR being C.R.No. 11821030220571 of 2022 registered with Jhalod Police Station, District Dahod for the offence punishable under Sections 429, 114 of the IPC and u/s. 11(1) (a)(d)(f) of the Animal Cruelty Act and u/s. 5(1)(A), 6(A)(1),8(4) of the Animal Preservation Act.

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. That, earlier the applicant has approached this court by way of Criminal Misc. Application No. 373 of 2023 with a request to release him on bail but vide order dated 10.01.2023, he was

permitted to withdraw such application with a liberty approach competent court after filing of the charge sheet. That, investigation of the present offence has been completed and the investigating officer has filed charge sheet against the present applicant. Ultimately, it was requested by learned advocate for the applicant to allow present application.

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. That, the applicant is involved in the serious offence as alleged and therefore, no leniency view would be taken in favour of the applicant while releasing him on bail. Ultimately, it was submitted by learned APP for the respondent-State to reject present application.

Having heard learned advocate for the applicant and learned APP for the respondent-State as well as papers produced on record, it appears that earlier the applicant has approached this court by way of Criminal Misc. Application No. 373 of 2023 with a request to release him on bail but vide order dated 10.01.2023, he was permitted to withdraw such application with a liberty approach competent court after filing of the charge sheet. It appears that the investigation is over against the present applicant and charge-sheet has been filed by the investigating officer against the present applicant. Since trial will take its own time to conclude, the presence of the applicant is not required in judicial custody and therefore, I am of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Thus, in the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, the prayer of the applicant requires consideration.

Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an FIR being C.R.No. 11821030220571 of 2022 registered with Jhalod Police Station, District Dahod 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 territory of India without prior permission of the Sessions Judge concerned;
- [e] 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 the learned Sessions Court concerned;

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.

Rule is made absolute to the aforesaid extent.