

(2023) 02 GUJ CK 0054

In the Gujarat High Court

Case No : R/Criminal Appeal No. 205 Of 2023, Criminal Misc.Application (For Condonation Of Delay) No. 1 Of 2023

Ashokbhai Kalabhai Sau

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 13-02-2023

Acts Referred:

Limitation Act, 1963 — Section 5
Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(V), 14
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 120B, 143, 147, 148, 149, 201, 302
Gujarat Police Act, 1951 — Section 135

Citation : (2023) 02 GUJ CK 0054

Hon'ble Judges : Samir J. Dave, J

Bench : Single Bench

Advocate : Ashish M Dagli, R. C. Kodekar

Final Decision : Allowed

Judgement

Samir J. Dave, J

IN CR.MA NO.1 OF 2023

1. Heard learned advocates for the respective parties.
2. By this application under section 5 of the Limitation Act, 1963, the applicant seeks condonation of delay caused in filing present appeal.
3. Having regard to the submissions advanced by the learned advocate for the applicant and more particularly considering the averments made in the memorandum of application, the Court is of the view that the delay caused in filing present appeal has been sufficiently explained.
4. The application, therefore, succeeds and is accordingly, allowed. The delay caused in filing present appeal is hereby condoned. Criminal Misc. Application

stands disposed of. Rule is made absolute.

ORAL ORDER IN CR.A NO.205 OF 2023

1. By way of this appeal filed under Section 14 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act read with Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. registered at C.R.No. I- 11203023211183 of 2021 with 'A' Division Police Station, District Junagadh for the offences punishable under Sections 302, 120B, 201, 34, 143, 147, 148 and 149 of the IPC and under Section 135 of the Gujarat Police Act and also under Section 3(2)(V) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

2. Learned advocate for the applicant submits that considering the nature of offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. The learned APP opposes the grant of bail looking to the nature and gravity of offences.

4. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

5. I have heard learned advocates appearing for the parties and perused the papers of investigation.

6. In the facts and circumstances of the case and considering the nature of allegations made in the FIR and without discussing the evidence in details as well as without going into details, prima-facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the applicant on bail. that this is a fit case to exercise the discretion to enlarge the applicant on bail. Hence, the application is allowed and the applicant is ordered to be released on bail in connection with C.R.No. I- 11203023211183 of 2021 with 'A' Division Police Station, District Junagadh, on executing a bond of Rs.10,000/-(Rupees Ten 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 injuries to the interest of the prosecution;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave the India without prior permission of the Sessions Judge concerned;

[e] furnish the present address of residence to the I.O. 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;

[f] shall not enter into the limits of District Junagadh till the trial is over.

7. The Authorities will release the applicant only if she 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. 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.

Direct service is permitted.