

(2021) 04 GUJ CK 0076

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 6412 Of 2021

Avesh @ Sunny Aminbhai Meman

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 22-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439, 482
Indian Penal Code, 1860 — Section 114, 365, 392, 394, 397

Citation : (2021) 04 GUJ CK 0076

Hon'ble Judges : A.J.Desai, J

Bench : Single Bench

Advocate : Suhail Z Saiyed, LB Dabhi

Final Decision : Allowed

Judgement

A.J.Desai, J

1. Mr. Vasim Kureshi, states that he has instruction to appear on behalf of the original complainant. Accordingly, he is permitted to file his appearance

on behalf of the original complainant. He further states that original complainant is present in the office of Vasim Kureshi, learned advocate and he

has identified the original complainant, who is sitting beside him.

2. Mr. Saiyed, learned advocate for the applicant and Mr. Kureshi, learned advocate, jointly submit that the matter is amicably settled between the

parties. They further submit that application under Section 482 of the Code of Criminal Procedure has been filed for quashment of the said FIR and

the same is pending before the Coordinate Bench of this Court. They further submit that the original complainant has also filed an affidavit of

settlement in the application for quashment of the FIR and the copy of the same is also annexed with present application.

3. Rule. Mr.L.B.Dabhi, learned Additional Public Prosecutor, waives service of notice of Rule on behalf of respondent-State.

4. This application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. registered at

C.R.No.11197025202104 of 2021 with Karjan Police Station, District Vadodara, for the offences punishable under Sections 365, 392, 394, 397 and 114

etc. of the Indian Penal Code.

5. Learned advocate for the applicants submits that matter is amicably settled between the parties. He further submits that application under Section

482 of the Code of Criminal Procedure has been filed for quashment of the said FIR and the same is pending before the Coordinate Bench of this

Court. He further states that the original complainant has also filed an affidavit of settlement in the application for quashment of the FIR and the copy

of the same is also annexed with present application. considering the nature of offence, the applicants may be enlarged on regular bail by imposing

suitable conditions.

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

7. I have heard learned advocates appearing for the parties and perused the papers of investigation. Charge sheet is filed. The matter is amicably

settled between the parties. The complainant is identified by the learned advocate for the complainant, who is sitting beside him in his office.

Application under Section 482 of the Code of Criminal Procedure for quashment of FIR has been preferred and the same is pending before the

Coordinate Bench of this Court.

Affidavit of settlement is filed in the application for quashing of FIR and copy of the same is annexed with this application.

8. 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 applicants on

bail. Hence, the application is allowed and the applicants are ordered to be released on bail in connection with C.R.No.11197025202104 of 2021 with

Karjan Police Station, District Vadodara on executing a bond of Rs.10,000/- (Rupees Ten 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 at the concerned police station on any day of first week of each English Calendar Month for a period of three months;

[f] 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;

9. 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. 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.

10. Rule made absolute to the aforesaid extent.

Direct service is permitted.