

(2023) 12 GUJ CK 0015
In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 21472 Of 2023

Babubhai Chothabhai Rangpara

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 08-12-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 447

Gujarat Land Grabbing (Prohibition) Act, 2020 — Section 4(3), 5(a), 5(c), 5(e)

Citation : (2023) 12 GUJ CK 0015

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : ??Sajid Y Kariyaniya, Jirga Jhaveri

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regularbailinconnectionwith

C.R.No.11211035230220 of 2023 registered with Muli Police Station, District Surendranagar for the offence punishable under Section 447 of the Indian Penal Code and under Sections 4(1), 4(2), 4(3), 5(a), 5(c) and 5(e) of the Gujarat Land Grabbing (Prohibition) Act, 2020.

2. Learned advocate Mr. Sajid Kariyaniya appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions. It is further submitted that FIR has been registered on 11.08.2023. The applicant is arrested on 11.08.2023 and since then he is in judicial custody. The investigation is already completed and after submission of charge-sheet, present bail application is preferred. It is submitted that applicant has filed an affidavit-cum-declaration/

undertaking to the effect that henceforth the applicant will not claim right, title and interest over the disputed land of the complainant i.e. Survey No.23 (Old Survey No.91p1) admeasuring 2-02-34 Hec.Are.Sq.Mtr. and that he has already left the possession of disputed land and he will handover the possession of the disputed land to the complainant within a period of ten days from the date of his release and he will not disturb the possession of the complainant of disputed land. In view of the aforesaid facts, present bail application may be entertained.

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

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

5. I have heard the learned advocates appearing on behalf of the respective parties. I have perused the police papers and other documents produced by the applicant along with the memo of the application. It is found out from the record that applicant is arrested on 11.08.2023 and since then he is in judicial custody. The investigation is already completed and after submission of charge-sheet, present bail application is preferred. It is submitted that applicant has filed an affidavit-cum-declaration/undertaking dated 06.12.2023 to the effect that henceforth the applicant will not claim right, title and interest over the disputed land of the complainant i.e. Survey No.23 (Old Survey No.91p1) admeasuring 2-02-34 Hec.Are.Sq.Mtr. and that he has already left the possession of disputed land and he will handover the possession of the disputed land to the complainant within a period of ten days from the date of his release and he will not disturb the possession of the complainant of disputed land. In view of the aforesaid undertaking, I am inclined to consider the case of the applicant accused.

6. 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.

7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant 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 applicant on regular bail.

8. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with C.R.No.11211035230220 of 2023 registered with Muli Police Station, District Surendranagar, on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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 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;

[g] act as per the affidavit-cum-declaration/undertaking dated 06.12.2023 and adhere to the terms and conditions of the said affidavit and the complainant and/or the prosecuting agency are at liberty to initiate appropriate legal proceedings in the event the applicant failed to comply with the terms and conditions of the affidavit dated 06.12.2023 filed before this Court.

9. 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 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.

10. 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.

11. The present application stands allowed accordingly. Direct service is permitted.