

(2023) 11 GUJ CK 0007

In the Gujarat High Court

Case No : R/Criminal Appeal (Regular Bail - After Chargesheet) No. 1920 Of 2023, Criminal Misc.Application (Fixing Date Of Early Hearing) No. 1 Of 2023 In R/Criminal Appeal No. 1920 Of 2023

Barot Rajeshkumar @ Raju Jagannathbhai

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 02-11-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(2)(v), 14A
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 306, 406, 420, 506(2)

Citation : (2023) 11 GUJ CK 0007

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Yash K Dave, Vishal K Anandjiwala, Hardik Mehta, R L Raval

Final Decision : Disposed Of

Judgement

Hasmukh D. Suthar, J

1. The present appeal is filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act") read with Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with C.R. No.11216008230217 of 2023 with Gandhinagar Sector-7 Police Station, Gandhinagar for the offences punishable under Sections 306, 406, 420, 506(2) and 114 of the Indian Penal Code, 1860 and under Section 3(1)(r), 3(2)(v) of the Atrocities Act.

2. Learned advocate for the appellant submits that the the appellant has nothing to do with the offence and he is falsely implicated in the offence. It is submitted that the alleged incident took place on 22.05.2023 whereas the complaint was filed on 27.05.2023 after delay of five days. It is submitted that as per the compliant, the deceased had given five lakh rupees to the accused No.1 and on

demanding the same, accused persons abused him using casteist words and also administered threats of dire consequences and therefore, the deceased has committed suicide. Thus, the transaction has taken place between the original accused No.1 and the deceased and the appellant is not concerned with the money. Charge-sheet is filed. The learned advocate appearing on behalf of the appellant submits that considering the nature of the offence, the appellant may be enlarged on regular bail by imposing suitable conditions.

3. The learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence and submitted that in the suicide note, the name of the appellant has been mentioned. It is alleged that, in connivance with the other accused, the present appellant duped five lakh rupees from the deceased and also threatened the deceased when asked for the money, using derogatory language about his caste. Therefore, the learned APP has requested that the appeal be dismissed.

4. Learned advocate for the respondent No.2 has adopted the submissions made by the learned APP and submitted that the applicant has played active role in the offence and the application be dismissed looking to the gravity of the offence.

5. This Court has heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the appellant and the role played by the appellant.

6. The court has also taken into consideration the following aspects :

(1) Charge-sheet is filed.

(2) The offence is not punishable by life imprisonment or the death penalty.

(3) So far the allegations leveled in the complaint against the present applicant are concerned, the same appears to be blurred.

(4) The co-accused persons are enlarged on regular bail, therefore, in view of Law of parity laid down in the case of Rameshbhai Batubhai Dhabhi vs State of Gujarat reported in (2011) 3 GLR 1999.

(5) It appears that the trial will take some time, and the applicant is ready and willing to abide by all the stringent conditions imposed by this Court.

7. 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.

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

9. Hence, the present appeal is allowed and the appellant is ordered to be released on regular bail in connection with C.R.

No.11216008230217 of 2023 with Gandhinagar Sector-7 Police Station, Gandhinagar, on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand) 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

[g] not enter into the vicinity of district Gandhinagar where complainant resides till the conclusion of the trial, except for the purpose of marking presence at the concerned Police Station.

10. The authorities will release the appellant 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.

11. 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.

12. 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 appellant on bail. Rule is made absolute to the aforesaid extent. Direct service is permitted.

13. Since the main appeal is disposed of, the application for fixing early date does not survive. Hence, the same is disposed of accordingly.