

(2022) 02 GUJ CK 0090
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 21125 Of 2021

Bhagirathsinh Bharatsinh Jadeja

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 22-02-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 420, 447, 465, 467, 468, 471
Gujarat Land Grabbing(Prohibition Act), 2020 — Section 4(3), 5(c), 5(e)

Citation : (2022) 02 GUJ CK 0090

Hon'ble Judges : Nirzar S. Desai, J

Bench : Single Bench

Advocate : Ashish M Dagli, Himanshu Patel

Final Decision : Allowed

Judgement

Nirzar S. Desai, J

1. This application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR registered as C.R. No.11213091211155 Of 2021 registered with Shapar Veraval Police Station, Rajkot Rural for the offence punishable under Sections 420, 120B, 447, 465, 467, 468 and 471 of the Indian Penal Code and under Sections 4(3), 5(c), 5(e) of the Gujarat Land Grabbing(Prohibition Act), 2020.

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

3. On the other hand, the learned Additional Public Prosecutor appearing for 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 a further reasoned order.

5. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered :-

I) The investigation is concluded and charge-sheet is filed;

II) Submission of learned advocate for the applicant that the applicant is in jail since 30.08.2021;

III) According to learned advocate for the applicant, the co-accused who according to the charge-sheet papers have played graver role than the present accused are released by the Co-ordinate Bench of this Court;

IV) The applicant has no antecedents;

V) Two co-accused namely Mr.Subhashbhai Maganbhai Singal and Mr.Govindbhai Dayabhai Parmar are enjoying interim protection in respect of anticipatory bail vide order dated 13.12.2021 passed in Criminal Misc. Applications No.17867 of 2021 and 17868 of 2021 and according to learned advocate for the applicant Mr.Dagli, the interim protection is still continued and the matter is adjourned to 06.04.2022,

VI) The other co-accused are released by the orders of the Co-ordinate Bench of this Court dated 02.02.2022 in Criminal Misc. Application No.23222 of 2021 and Criminal Misc. Application No.13 of 2022 and another co-accused Ms. Alkaben Ajaybhai Parmar is released by the Trial Court vide order dated 30.10.2021;

This Court has 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.

6. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the First Information Report, 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.

7. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with C.R. No.11213091211155 Of 2021 registered with Shapar Veraval Police Station, Rajkot Rural, 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 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 & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not leave India without prior permission of the Trial Court concerned;

(e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) furnish the present address of his 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 Trial Court;

8. 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.

9. 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 application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct Service is permitted.