

(2023) 11 GUJ CK 0062
In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 14880 Of 2023

Bhim Dipak Ahuji

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 30-11-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8(c), 22(c), 29

Citation : (2023) 11 GUJ CK 0062

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Aditya T Pancholi, 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.11210021221064 of 2022 registered with Katargam Police Station, Surat City for the offence punishable under Sections 8(c), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act.

2. Learned advocate Mr. Aditya Pancholi submits that the FIR has been registered on 13.12.2022 and applicant has been arrested on 20.12.2022 and since then he is in judicial custody. The investigation is already completed and after submission of the charge-sheet, present bail application is preferred. It is further submitted that the co-accused with similar role has been enlarged on bail by this Court vide order dated 12.10.2023 passed in Criminal Misc. Application No.10397 of 2023 and therefore on the ground of principle of parity, the bail application of the applicant may be considered and he may be enlarged on bail by imposing suitable terms and conditions.

3. Learned APP Ms. Jirga Jhaveri appearing on behalf of the respondent-State has objected present bail application with vehemence and submitted that looking to the gravity of the offence, bail application of the applicant may not be entertained.

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 has been arrested on 20.12.2022 and since then he is in judicial custody. The investigation is already completed and after submission of the charge-sheet, present bail application is preferred. It is found out from the record that the co-accused has been enlarged on bail by this Court vide order dated 12.10.2023 passed in Criminal Misc. Application No.10397 of 2023 and therefore on the ground of principle of parity, I am inclined to consider the present bail application.

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.11210021221064 of 2022 registered with Katargam Police Station, Surat City, 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;

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