

(2021) 07 GUJ CK 0052

In the Gujarat High Court

Case No : Criminal Misc.Application (Temporary Bail) No. 3 Of 2021 In R/
Criminal Appeal No. 83 Of 2021

Bholabhai S/O. Khemubhai Nansing Bandvadiya

APPELLANT

Vs

Jail Superintendent

RESPONDENT

Date of Decision : 29-07-2021

Acts Referred:

Citation : (2021) 07 GUJ CK 0052

Hon'ble Judges : Sonia Gokani, J;Rajendra M. Sareen, J

Bench : Division Bench

Advocate : Jirga Jhaveri

Final Decision : Allowed

Judgement

Sonia Gokani, J

1. On 19.07.2021, while considering the application for temporary bail, this Court issued the rule and passed the following order: -

1. Rule returnable on 29th July, 2021. Ms. Shah, learned APP waives service of notice of rule on behalf of the respondent " State.

2. The applicant, who undergone 07 years and 03 months in jail has preferred this application seeking release for 30 days on the ground of providing

financial assistance to his family.

3. We notice that before his conviction on 27th November, 2019, the data as to whether he in fact released or not is not available to this Court in the

report, which ordinarily comes from the jail authority.

4. Let the basic details be called for. If deemed appropriate, additional column also can be incorporated in the report, so that this can be easily and

smoothly taken note at the time of considering the applications in the post

conviction period. â??

2. The jail report is shared with the Court which indicates that he has undergone 7 years and 3 months in jail and at no stage he has been granted any

parole, furlough or temporary bail. Presently on the ground of poor economic condition of the family, he has earnestly urged this Court to allow him the temporary bail.

3. We have heard learned Additional Public Prosecutor who has made submission to the effect that at no stage he has been granted temporary bail.

He is the resident of the State of Madhya Pradesh and he also is a life convict under the POCSO Act. Hailing from the State of Madhya Pradesh, for procuring his presence to undergo the rest of the sentence, necessary directions be issued.

4. On considering the submissions and also bearing in mind the overall circumstances, as the applicant in these seven years has not been granted any release, the Court is inclined to consider his case for a period of 21 days.

5. Let his test of COVID-19 virus be carried out and only subject to his testing negative, this order shall operate in his case.

6. Resultantly, we are inclined to consider the request of the applicant â?" convict for a period of Twenty-One (21) Days from the date of his actual

release, on his executing the personal bond of Rs. 15,000/- (Rupees Fifteen Thousand Only) and furnishing one surety of the like amount before the

jail authority concerned.

6.1. While on temporary bail, (i) the applicant shall in any manner, not act in contravention to the prevalent law; (ii) the applicant shall maintain law and

order and shall follow the guidelines issued by the Government in the present times of COVID-19; (iii) the applicant shall not contact any of the

prosecuting witnesses; (iv) the applicant shall mark his presence after every 7 days from the date of his actual release before the Alirajpur Police

Station, District: Alirajpur, Madhya Pradesh.

7. The applicant shall surrender before the jail authorities in time.

7.1. On his return, all the protocols shall be scrupulously followed which are required to be maintained by the jail authority.

8. The present application is allowed accordingly. Rule is made absolute in the aforesaid terms.

9. Registry is directed to send this order to the jail authority concerned through e-mode which, in turn, shall communicate the same to the person concerned.