

(2020) 03 GUJ CK 0003

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 988 Of 2020

Chehrabhai Lakshmanbhai Bharvad

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 03-03-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 120(B), 143, 147, 148, 149, 302, 307, 323, 324, 325, 326, 427, 429, 504, 506(2)
Gujarat Police Act, 1951 — Section 135(1)
Prevention Of Cruelty To Animals Act, 1960 — Section 11(L)

Citation : (2020) 03 GUJ CK 0003

Hon'ble Judges : Umesh A. Trivedi, J

Bench : Single Bench

Advocate : Ashish M Dagli, Maithali Mehta, Pankaj Chaudhary

Final Decision : Allowed

Judgement

Umesh A. Trivedi, J

1. Mr.Pankaj Chaudhary, learned advocate, states that he has received instructions to appear on behalf of the original first informant. He is permitted

to file his Vakalatnama in the Registry.

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being C.R. No.I-

132 of 2019 registered with Radhanpur Police Station, District Patan, for offence under Sections 302, 307, 326, 324, 325, 323, 504, 506(2), 143, 147,

148, 149, 120(B), 427, 429 and 34 of the Indian Penal Code, Section 135(1) of the Gujarat Police Act and Section 11(L) of the Animal Cruelty Act.

3. Learned Advocate appearing on behalf of the applicants submits that considering the nature of the offence, the applicants may be enlarged on

regular bail by imposing suitable conditions.

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

5. Learned advocate for the original first informant has opposed this application and submitted that the applicants are implicated in the offence

punishable under Section 302 of the IPC and, therefore, this Court may not exercise discretion in favour of the applicants.

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

7. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case,

nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is

a fit case to exercise the discretion and enlarge the applicants on regular bail.

8. This Court has considered following aspects,

(a) The applicants were arrested on 18.09.2019 and since then, they are in jail;

(b) Charge-sheet is already filed against the accused.

(c) There is a cross case filed against the complainant side on behalf of the applicants.

(d) Similarly situated set of 9 (nine) accused, who had not caused any injury to the deceased, though it is alleged that they were armed with stick and

inflicted blows to the witnesses, have come to be released on bail vide Criminal Misc. Application No.1597 of 2020 on 28.02.2020.

9. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of

Investigation, reported in [2012] 1 SCC 40.

10. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with FIR being C.R. No.I-132 of

2019 registered with Radhanpur Police Station, District Patan, on executing a personal bond of Rs.10,000/ (Rupees Ten Thousand only) each with one

surety of the like amount to the satisfaction of the trial Court and subject to the conditions that they 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 India without prior permission of the concerned trial court;
 - [e] mark presence before the concerned Police Station between 1st to 10th day 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 the concerned trial court;
11. The authorities will release the applicants only if they are 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.
12. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.
13. Rule is made absolute to the aforesaid extent. Direct service is permitted.