

(2021) 03 GUJ CK 0095
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 895 Of 2021

Chelaram Jethalal Panchal

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 17-03-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 120(B), 406, 420, 465, 467, 471

Citation : (2021) 03 GUJ CK 0095

Hon'ble Judges : A.Y. Kogje, J

Bench : Single Bench

Advocate : Yogesh Lakhani, Viral K Salot, Sk Patel, L B Dabhi

Final Decision : Allowed

Judgement

A.Y. Kogje, 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 CR-I/11201001200003 /2020 with CID Crime Police Station, Gandhinagar Zone, Gandhinagar for the offence punishable under Sections 406, 420, 465, 467, 471 and 120(B) of the Indian Penal Code.

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 FIR is registered on 06.08.2020 for the offence which took place between 2014 and 2017.

II) The applicant is in custody since 22.12.2020.

III) Investigation is concluded and charge- sheet is filed.

IV) Submission of learned advocate for the applicant that the offence took place between 2014 and 2017, wherein FIR is registered in the Year 2020.

V) Submission of learned advocate for the applicant that main grievance of the complainant appears to be against accused no.1- Kalpesh, however, there is a settlement between the accused no.1 and the complainant. At this stage, learned advocate for the original complainant vehemently opposes the application by submitting that though compromise has been arrived at between the accused no.1-Kalpesh and complainant, accused no.1-Kalpesh has not acted in conformity with such settlement and in fact, after entering into settlement, he has once again filed Civil Suit. However, learned advocate for the applicant submits that this objection may be raised at an appropriate proceedings against the co-accused persons, as this Court is dealing with the qua present applicant-accused only.

VI) Submission of learned advocate for the applicant that offence is, therefore, only with regard to settling of account pursuant to the so called compromise arrived at. At this stage, it is stated by learned advocate for the original complainant that even the settlement is a farce and only entered into with a view to defraud the complainant of his legitimate right and immediately after settlement, the accused persons have taken U turn, and therefore, only have filed a Civil Suit.

VII) Learned Additional Public Prosecutor under the instructions of the Investigating Officer is unable to bring on record any special circumstances against the applicant.

6. 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.

7. 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.

8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with CR-I/11201001200003 /2020 registered with CID Crime Police Station, Gandhinagar Zone, Gandhinagar 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;
- (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 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 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.

10. 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.

11. 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.

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