

(2020) 08 GUJ CK 0077

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9957 Of 2020

Devalbhai Rupabhai Bharwad

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 07-08-2020

Acts Referred:

Gujarat Mineral (Prevention Of Illegal Mining And Transportation And Storage) Rules, 2017 — Rule 3
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 143, 147, 149, 186, 323, 332, 341, 353, 379, 392, 504, 506(2)

Citation : (2020) 08 GUJ CK 0077

Hon'ble Judges : Bhargav D. Karia, J

Bench : Single Bench

Advocate : Dhruvik K Patel, C.M.Shah

Final Decision : Allowed

Judgement

Bhargav D. Karia, J

1. Heard learned advocate Mr.Dhruvik Patel for the applicant and learned Additional Public Prosecutor Ms. C.M. Shah for the respondent-State.

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being CR-

I/11184002200788/2020 registered with Chhota Udepur police station, District Chhota Udepur for offence under section 186, 323, 332, 341, 353, 379,

392, 143, 147, 149, 504 and 506(2) of the Indian Penal Code and Rule 3 of the Gujarat Mineral (Prevention of Illegal Mining and transportation and

storage) Rules, 2017

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

bail by imposing suitable conditions.

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

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

6. 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 applicant on regular bail.

7. This Court has considered following aspects :

(a) Applicant is in jail since 3rd July, 2020.

(b) It is submitted by the learned advocate for the applicant that no substantial role is attributed to the applicant for the alleged offence in the FIR.

(c) The complainant who is stated to be injured is already discharged from the hospital.

Looking to the overall facts and circumstances of the present case, I am inclined to consider the case of the applicant.

8. 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.

9. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being CR-

I/11184002200788/2020 registered with Chhota Udepur police station, District Chhota Udepur 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 concerned trial court till the trial is over;

[e] mark presence before the concerned Police Station between 1st to 10th day

of every English calendar month till the trial is over;

[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;

10. 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.

11. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

12. Rule is made absolute to the aforesaid extent.

13. Direct service is permitted.

The Registry is directed to communicate this order to the concerned Court/ authority by Fax or Email.