
(2020) 02 GUJ CK 0067

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 1762 Of 2020

Deven Vishnubhai Nayak

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114, 120B, 406, 420, 465, 468

Citation : (2020) 02 GUJ CK 0067

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

Bench : Single Bench

Advocate : RJ Goswam, Ronak Rava

Final Decision : Allowed

Judgement

A.Y. Kogje, J

1. RULE. Learned Additional Public Prosecutor waives service of rule on behalf of the respondent-State.

2. 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 C.R. No.I-98/2019 with Sayajiganj Police Station, Vadodara City for the offence punishable under Sections 406, 420, 465, 468, 120(B)

and 114 of the Indian Penal Code.

3. 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.

4. 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.

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

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered :-

I) The First Information Report is registered on 08.10.2019 for the offence which is alleged to have taken place on 08.10.2019;

II) The applicant is in custody since 08.10.2019;

III) The investigation has concluded and the chargesheet is filed; IV) The submission of learned Advocate for the applicant that the role of the

applicant who is the accused No.1 is identical to the other co-accused as it is an issue of creating the passport of a country "Spain";

V) The co-accused and identically situated has been enlarged on regular bail. Hence, applying the principle of parity;

VI) Considering the maximum sentence that can be imposed; VII) No antecedents are reported qua the applicant and;

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

This Court has 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.

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 C.R. No.I-98/2019 with

Sayajiganj Police Station, Vadodara City 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 and shall not obstruct or hamper the police investigation and shall not play mischief

with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not leave the State of Gujarat without prior permission of the Trial Court concerned;

(e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. & 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 Trial 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.