

(2021) 07 GUJ CK 0008

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9180 Of 2021

Devraj Virambhai Desai @ Manojbhai Desai

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 02-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 120B, 394, 406, 420

Citation : (2021) 07 GUJ CK 0008

Hon'ble Judges : S.H.Vora, J

Bench : Single Bench

Advocate : Sudhir Nanavati, Vandan K Baxi, Prachiti V Shah, Nanavati, Pranav Trivedi

Final Decision : Allowed

Judgement

S.H.Vora, J

This application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. registered at C.R.

No.11211031210082 of 2021 with Limdi Police Station for the offences punishable under Sections 394, 406, 420 and 120-B of the Indian Penal Code.

2. Heard learned Senior Advocate Mr.Sudhir Nanavati for the applicant and learned APP, for the respondent-State through V.C. and examined the papers placed for consideration in support of the submission made at bar.

3. Upon hearing submission, following picture emerges on record :-

(i) Substantial investigation is over.

(ii) Learned Senior Advocate Mr.Sudhir Nanavati for the applicant states that no past antecedent is registered qua the applicant.

(iii) Learned APP upon report of the Investigating Officer states at bar that no role is surfacing in the second part of the offence wherein Rs.40 Lakhs

were taken from the complainant for the purpose of purchase of bitcoin.

(iv) The offences alleged against the applicant are triable by Magisterial Court and considering the pendency before the concerned Magisterial Court,

there is no likelihood of commencement and conclusion of trial within near future and therefore, refusal of bail will amount to pre-trial conviction,

which is prohibited by law.

(v) The applicant has deep root in the society, no apprehension as to flee away or escape trial or tempering with the evidence /witnesses is expressed.

(vi) In view of above position emerging at the end of hearing, the application deserves consideration, but by imposing suitable condition to be observed

by the applicant, pending investigation and trial.

4. Hence, the application is allowed and the applicant is ordered to be released on bail in connection with C.R. No.11211031210082 of 2021 with Limdi

Police Station, on executing a 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 the applicant 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] not leave the territory of India without prior permission of the Sessions Judge concerned;

[d] appear before the Investigation Officer concerned, as and when required for investigation purpose and attend the Court concerned regularly.

[e] furnish the present address of residence along with the proof to the I.O. concerned and also to the Court at the time of execution of the bond and

shall not change the residence without prior permission of Sessions Court concerned;

5. The competent authority will release the applicant only if the applicant 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 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. 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.

6. Rule made absolute to the aforesaid extent. Direct service is permitted.