

(2023) 06 GUJ CK 0080
In the Gujarat High Court
Case No : R/Criminal Appeal No. 1330 Of 2023

Dineshbhai Babubhai Chaudhary

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 19-06-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(2)(v), 3(1)(r), 3(2)(va), 14(A)(2)
Indian Penal Code, 1860 — Section 114, 306

Citation : (2023) 06 GUJ CK 0080

Hon'ble Judges : Nirzar S. Desai, J

Bench : Single Bench

Advocate : Lakshit V Patel, RJ Goswami, Vrunda Shah

Final Decision : Disposed Of

Judgement

Nirzar S. Desai, J

1. By way of the present appeal under Section 14 (A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, the applicant accused has prayed for release on anticipatory bail in case of arrest in connection with the FIR bearing No.11217004230138 of 2023 registered with Balisana Police Station, Patan for the offenses punishable under Sections 114 and 306 of the Indian Penal Code and Sections 3(1)(r), 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 1989.

2. Learned advocate for the applicant submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. Besides, the applicant is available during the course of investigation and will not flee from justice. In view of the above, the applicant may be granted anticipatory bail.

3. Learned advocate for the applicant on instructions states that the applicant is ready and willing to abide by all the conditions including imposition of conditions with regard to powers of Investigating Agency to file an application before the

competent Court for remand. He would further submit that upon filing of such application by the Investigating Agency, the right of applicant accused to oppose such application on merits may be kept open.

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

5.1 Having heard the learned advocate for the parties and perusing the investigating papers 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, at this stage, I am inclined to grant anticipatory bail to the applicant. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors. as reported at [2011] 1 SCC 6941, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of Shri Gurubaksh Singh Sibbia & Ors., as reported at (1980) 2 SCC 665.

5.2 This Court has considered the following facts while exercising the discretion in favour of the applicant.

(a) As per the FIR, present applicant is the owner of house keeping firm wherein the deceased was serving and as he was sacked from the service when he requested supervisor to take him back and as Supervisor refused to do so and abused him, feeling bad about the same the deceased committed suicide. However, the present applicant is not the Supervisor against whom allegations of abusing the deceased and not considering his request to take him back in services are alleged;

(b) As per learned senior advocate Mr.N.D.Nanavati, upon instructions, present applicant was not present even in Gujarat at the relevant point of time as he was on tour to Uttarakhand;

(c) learned senior advocate Mr.Nanavati draws attention of this Court to the documents which would indicate that the present applicant was not in Gujarat when the incident occurred;

(d) there is no suicide note by the deceased and even as per the investigation papers, which are perused by this Court, as per the investigation the entire case is based on belief of relative of the deceased person that this might be the reason of the deceased committed suicide and there is no concrete and cogent evidence against the present applicant, prima facie;

(e) no past antecedent is attributed to the applicant.

6. In the result, the present appeal is allowed by directing that in the event of applicant herein being arrested pursuant to FIR bearing No.11217004230138 of 2023 registered with Balisana Police Station, Patan, the applicant shall be released on bail on furnishing a personal bond of Rs. 10,000/- (Rupees Ten

Thousand only) with one surety of like amount on the following conditions that the applicants:

(a) shall cooperate with the investigation and make himself available for interrogation whenever required;

(b) shall remain present at the concerned Police Station on 26.06.2023 between 11.00 a.m. and 2.00 p.m.;

(c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

(d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

(e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change his residence till the final disposal of the case till further orders;

(f) shall not leave India without the permission of the Court and if having passport shall deposit the same before the Trial Court within a week; and

(g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide it on merits;

7. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if, ultimately, granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order.

8. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the applicants on bail.

9. Rule is made absolute to the aforesaid extent. Application is disposed of accordingly. Direct service is permitted.