

(2022) 01 GUJ CK 0077

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 22158 Of 2021

Dineshbhai Dahyabhai Bharwad

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 19-01-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Gujarat Prohibition Act, 1949 — Section 65(a), 65(e), 81, 83, 98(2), 116(B)

Indian Penal Code, 1860 — Section 120(B), 468, 471

Citation : (2022) 01 GUJ CK 0077

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

Bench : Single Bench

Advocate : Salim M Saiyed, Moksha Thakkar

Final Decision : Allowed

Judgement

A.Y. Kogje, J

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

C.R.NO.I/11216005210680 /2021 registered with Dahegam Police Station, Gandhinagar for offence under Sections 65(a), 65(e), 116(B), 81, 83 and

98(2) of the Prohibition Act and Section 468, 471 and 120(B) of the Indian Penal Code.

2. 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.

3. Learned APP appearing on behalf of 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 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 27.09.2021 for the offence which is alleged to have taken place on 27.09.2021.

II. The applicant is in jail since 23.10.2021.

III. The investigation is concluded and charge-sheet is filed.

IV. Submissions of learned advocate for the applicant that the applicant arraigned as accused where there is no evidence to connect the present

applicant.

V. Only on the basis of statement of secret informant, the name of the accused revealed.

VI. With regard to the antecedents reported against the present applicant, the applicant is already enlarged on regular bail.

VII. Learned APP under instructions of IO is unable to bring on record any special circumstances against the applicant.

6. This Court has also 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 FIR, 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 FIR being

C.R.NO.I/11216005210680 /2021 registered with Dahegam Police Station, 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 & shall not obstruct or hamper the police investigation and shall not to 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 Tal:Dahegam without prior permission of the Trial Court concerned till completion of trial except for the purpose of attending the trial

proceedings;

(e) mark presence before the concerned Police Station once in a 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 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. Rule is made absolute to the aforesaid extent. Direct service is permitted.