

(2024) 03 GUJ CK 0097

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Anticipatory Bail) No. 5807 Of 2024

Dineshbhai Karamshibhai Desai

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 27-03-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Citation : (2024) 03 GUJ CK 0097

Hon'ble Judges : J. C. Doshi, J

Bench : Single Bench

Advocate : Kishan R Chakwawala, RM Chakwawala, Soham Joshi

Final Decision : Allowed

Judgement

J. C. Doshi, J

1. By way of the present petition under Section 438 of the Code of Criminal Procedure, 1973, the petitioner has prayed to release him on anticipatory bail in case of his arrest in connection with the FIR registered as C.R.No.11191011230216 of 2023 registered with DCB Police Station, Ahmedabad City.

2. Learned advocate for the petitioner submits that considering the nature of allegations, role attributed to the petitioner, the petitioner may be enlarged on anticipatory bail by imposing suitable conditions.

3. 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.

4. Heard the learned Advocates for the respective parties and perused the papers.

5. Having heard the learned counsel for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused, without discussing the evidence in detail, at this

stage, I am inclined to exercise discretion in favour of the petitioner for the following reasons : -

(1) Charge-sheet is filed. FIR is lodged for the period commencing from 2019 and thus there is a delay in lodgment of the FIR.

(2) Prima facie, the essential ingredients of the alleged offences are missing.

(3) Co-accused persons came to be enlarged on regular bail by the learned Sessions Court as well as the co-ordinate Bench of this Court.

(4) Under the instructions of petitioner, learned Advocate states that petitioner is ready and willing to co-operate with the investigation.

6. This Court while exercising discretion in favour of the petitioner has taken into consideration law laid down by the Apex Court in the case of Siddharam Satlingappa Mhetre v/s. State of Maharashtra and Ors. [2011] 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitutional Bench in the the case of Shri Gurubaksh Singh Sibbia & Ors. v/s. State of Punjab (1980) 2 SCC 665. This Court has also taken into consideration law laid down in the case of Sushila Agarwal v/s. State (NCT of Delhi [(2020) 5 SCC 1].

7. In the result, the present petition is allowed by directing that in the event of applicant herein being arrested pursuant to FIR registered as C.R.No.11191011230216 of 2023 registered with DCB Police Station, Ahmedabad City the petitioner 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 petitioner :

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

(b) shall remain present at concerned Police Station on 8&9.4.2024 between 10.00 a.m. and 4.00 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 residence till the final disposal of the case till further orders;

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

8. If breach of any of the above conditions is committed by the petitioner, the concerned learned Judge will be free to take appropriate action in the matter. 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 prima facie observations made by this Court while enlarging the petitioner on bail.

9. Rule is made absolute. Direct service is permitted.