

(2024) 01 GUJ CK 0114
In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No.
1534 Of 2024

Dipen Nileshbhai Desai

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 25-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 01 GUJ CK 0114

Hon'ble Judges : M. R. Mengdey, J

Bench : Single Bench

Advocate : Anik E Shaikh, Firoz B Sodha, Chintan Dave

Final Decision : Allowed

Judgement

M. R. Mengdey, J

1. Rule. Learned APP waives service of notice of Rule on behalf of respondent-State.
2. This application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. No.11191044230218 of 2023 registered with Ghatlodiya Police Station, District Ahmedabad.
3. Learned advocate for the applicant submits that considering the nature of offence and role attributed to the applicant, the applicant may be enlarged on regular bail by imposing suitable conditions.
4. The learned APP appearing for the respondent State vehemently submits that the present applicant had borrowed sum of Rs.12 Lakhs from the parents of the deceased who happens to be his wife and the said amount was demanded back by the parents of the deceased. While the amount being demanded back, the present applicant started misbehavior with his wife, which shows active participation in commission of alleged offence. It is also stated that the marriage

span of the present applicant and the deceased was less than seven years. He therefore submits that the offences which have been charged, are serious in nature and looking to the facts as well as the allegations made against the applicant, no discretion would be required to be exercised.

5. I have heard learned advocates appearing for the parties and perused the papers of investigation. From the record it appears that the investigation is over and Charge-sheet has already been filed. It appears from the papers that the present applicant happens to be husband of the deceased. The marriage life between the applicant and deceased was less than seven years. However, the present applicant had borrowed sum of Rs. 12 Lakhs from the parents of his wife for purchase of house and the parents of the deceased demanded back the said amount from the applicant, however the applicant could not repay the said amount and therefore, the deceased was pressurized by her parents to get amount back from the present applicant. Considering the role attributed to the present applicant, the present application deserves to be allowed.

6. In the facts and circumstances of the case and considering the nature of allegations made in the FIR and without discussing the evidence in details as well as without going into details, prima-facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the applicant on bail. Hence, the application is allowed and the applicant is ordered to be released on bail in connection with the aforesaid FIR, on executing a bond of Rs.10,000/- with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that;

(a) 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 from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

(b) shall maintain law and order and not to indulge in any criminal activities.

(c) shall furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change residence without prior permission of the trial Court.

(d) shall provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the trial Court.

(e) shall file an affidavit stating immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any.

(f) shall not leave India without prior permission of the Trial Court

(g) surrender passport, if any, to the Trial Court within a week. If accused does not possess passport, shall file an Affidavit to that effect.

7. The authorities concerned shall 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. 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.

8. At the trial, the concerned trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

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