

(2018) 01 GUJ CK 0028
In the Gujarat High Court
Case No : 30950 of 2017

DR. RAJ MRUGENDRABHAI RINDANI

APPELLANT

Vs

STATE OF GUJARAT

RESPONDENT

Date of Decision : 01-01-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 438](#) - Direction for grant of bail to person apprehending arrest
[Indian Penal Code, 1860](#), [Section 120B](#), [Section 468](#)

Citation : (2018) 01 GUJ CK 0028

Hon'ble Judges : B.N. Karia

Bench : Single Bench

Advocate : HRIDAY BUCH, RAKESH PATEL

Final Decision : Allowed

Judgement

1. RULE. Learned Additional Public Prosecutor waives service of notice of rule on behalf of the respondent State.

2. By way of the present Application preferred under Section 438 of the Code of Criminal Procedure, 1973, the applicant Dr. Raj Mrugendrabhai

Rindani original accused has prayed to release him on anticipatory bail in case of his arrest in connection with FIR registered as C.R No.I115/

2017 before Junagadh City "A" Division Police Station, District: Junagadh for an offence punishable under Sections 409, 465, 467, 468, 471 and

120B of the Indian Penal Code.

3. Learned advocate for the applicant Mr.Hriday Buch 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 away from justice. It is further stated that

without prejudice, the petitioner is ready and willing to deposit a reasonable amount, as deemed fit by the Court. In view of the above, the

applicant may be enlarged on anticipatory bail by imposing suitable conditions.

4. Learned advocate for the applicant on instructions states that the applicant is ready and willing to abide by all the conditions; including imposition

of condition with regard to powers of Investigating Agency to file an application before the competent Court of his remand. Learned advocate for

the applicant would further submit that upon filing of such application by the Investigating Agency, the right of applicant to oppose such application

on merits may be kept open.

5. Learned Additional Public Prosecutor Mr. Rakesh Patel appearing on behalf of the respondent State has strongly opposed grant of anticipatory

bail. He submitted there is a question of Rs.30,90,400/misappropriation by the petitioner and therefore, atleast 50% of the amount

misappropriated by him is required to be deposited by him and therefore, the petitioner is bound to deposit the amount and unless so paid, prayer

made cannot be considered by the Court as prima facie, he is involved in an offence punishable under Sections 409, 465, 467, 468, 471 and 120B

of the Indian Penal Code.

6. Considering all the aspects, as argued by the learned advocate for the petitioner, it appears that there are in all 7 accused persons involved in an

offence and the amount, as alleged by the prosecution amounts to Rs.30,90,400/ cannot be assessed at this juncture and that who are responsible

for misappropriation of this amount and not crediting it to the account of the students cannot be decided. It is also directed by the President of the

Jeevandeep Charitable Trust to credit the account by cash by way of Shishyavruithi, who were studying in the Institution by a letter dated

27.11.2015.

7. Investigation into the offence is in progress and after completion of the investigation, clear picture will emerge and hence, protection needs to be

granted to the petitioner.

8. Having heard 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 grant anticipatory bail to the

applicant. This Court has also taken into consideration the law laid down by the Apex Court in the case of Siddharam Satlingappa Mhetre vs.

State of Maharashtra and Ors. as reported in 2011. 1 SCC 6941, wherein the Apex Court reiterated the law laid down by the Constitutional

Bench in its earlier discussion in the case of Shri Gurubaksh Singh Sibbia & Ors., as reported at (1980) 2 SCC 665.

9. In the result, the present Application is allowed by directing that in the event of applicant Dr. Raj Mrugendrabhai Rindani herein being arrested

pursuant to FIR registered as C.R No.I115/ 2017 before Junagadh City "A" Division Police Station, District: Junagadh, for an offence punishable

under Sections 409, 465, 467, 468, 471 and 120B of the Indian Penal Code, the applicant shall be released on bail on his furnishing a personal

bond of Rs. 10,000/(Rupees Ten Thousand only) with one surety of like amount on the following conditions that the applicant shall :

(a) The petitioner shall arrange to deposit Rs.5,00,000/while his release on bail before the learned Chief Judicial Magistrate at Junagadh and

remaining amount of Rs.5,00,000/shall be deposited by the petitioner within a period of one month thereafter.

(b) cooperate with the investigation and make available for interrogation whenever required;

(c) remain present at concerned Police Station on 09.01.2018 between 11.00 a.m. and 2.00 p.m.;

(d) 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 to any police officer;

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

(f) 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;

(g) 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

(h) 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;

10. 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 Dr. Raj Mrugendrabhai Rindani, 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. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the applicant on bail. Rule is made absolute. Application is disposed of accordingly. Direct service is permitted.