
(2020) 01 GUJ CK 0158
In the Gujarat High Court
Case No : R/Criminal Appeal No. 2313 Of 2019

Faizal Rajubhai Ajlani

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 13-01-2020

Acts Referred:

Gujarat Police Act, 1951 — Section 135(1)
Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Amendment Act, 2015 — Section 3(1)(R), 3(2)(5)
Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 14A(2)
Indian Penal Code, 1860 — Section 114, 302
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2020) 01 GUJ CK 0158

Hon'ble Judges : B.N. Karia, J

Bench : Single Bench

Advocate : Pratik Y Jasan, M.H. Bhatt

Final Decision : Allowed

Judgement

B.N. Karia, J

1. The appellant has filed Criminal Misc. Application No. 3270 of 2019 before the court of learned 13th Additional Sessions Judge, Rajkot u/s 439 of

the Code of Criminal Procedure, 1973 requesting to enlarge the appellant on regular bail on account of offence being registered vide I â?" C.R. No. 57

of 2019 with Gandhigram Police Station, Rajkot for the offence punishable u/s 302 and 114 of the Indian Penal Code, under Section 135 (1) of G.P.

Act and under Section 3(1)(R) and 3(2)(5) of the Atrocity Amendment Act, 2015 wherein the learned 13th Additional Sessions Judge, Rajkot rejected

the said application on 19.10.2019.

Feeling aggrieved by the said order, the appellant preferred said appeal u/s 14A(2) of the Atrocities Act.

2. Heard learned advocate for the appellant and learned APP for the respondent no.1- State.

3. Learned advocate for the appellant has submitted that the present appellant is wrongly involved in the offence by the Investigating Agency. He

further submits that there is no evidence or material on record which would connect the appellant with crime in question. He further submits that

appellant has not inflicted any blows on the deceased nor has caused any injuries on the body of the deceased. He further submits that as now charge-

sheet has been filed, there is no question of appellant hampering or tampering with the investigation. He further submits that no blood is found from the

cloths of the appellant. He further submits that as per the affidavit of the investigating agency, the appellant is having clean past record and is not

having any antecedents. Hence, it was requested by learned advocate for the appellant to quash and set aside the impugned judgment and order

passed by the learned 13th Additional Sessions Judge, Rajkot and release the present appellant on bail.

4. From the other side learned APP for the respondent-State has submitted the xerox copy of the statement recorded by Shri Makwana, PSI I/c S.C.

Police Commissioner S.C./S.T. Cell, Rajkot City. That statement of the original complainant was recorded by this Police Officer wherein the

complainant has clearly stated that on account of the marriage of his sister, he is unable to remain present before the Court. He has submitted that he

did not want to make any independent representation before this Court. Therefore, whatever submissions made by learned APP for the respondent-

State would be binding to him. Xerox copy of the statement is taken on record. Learned APP for the respondent-State has objected the submissions

made by learned advocate for the appellant submitting that present appellant and co-accused had called victim. It is further submitted that if the

deceased was not called her by the present appellant he could not be saved and escaped. That merely before of filing charge-sheet by the

investigating agency, gravity of the offence would not be reduced. That appellant is involved in a serious offence of murder and if he would be

enlarged on bail, there is ample chances of hampering and tampering with the evidence of the prosecution. Hence, it was requested by learned APP

for the respondent-State to dismiss present appeal.

5. From the police papers and arguments made by learned advocate for the appellant as well as learned APP for the respondent-State , it appears that complaint was filed by the complainant against four accused persons and alleged offence was taken place on 19.07.2019. As per the allegations made in the complaint, the present appellant has not inflicted any blows on the deceased and the co-accused assaulted with a knife and grievous injury was caused to him, and therefore, he was shifted to government hospital where he was declared as a dead person. From the statements of the prosecution witnesses recorded during the course of the investigation three persons have also made same statements about the deceased. No other allegations of using any weapon by the present appellant or causing any injury to the deceased were made against the present appellant. It is undisputed fact that investigation is over and charge-sheet was filed. As per the affidavit filed by the Investigating Officer before the Sessions Court, no criminal history is found nor any offence was registered in past against the present appellant. Considering the seriousness of the offence and role attributed by the present appellant, prayer made by the present appellant requires consideration by enlarging him on bail.

6. In the result, present Criminal Appeal is allowed and the impugned judgment and order dated 19.10.2019 passed by the learned 13th Additional Sessions Judge, Rajkot in Criminal Misc. Application No. 3270 of 2019 is hereby quashed and set aside. The appellant is ordered to be enlarged on regular bail on furnishing a bond of Rs. 10,000/- with one surety of like amount to the satisfaction of the trial Court and subject to the conditions that appellant shall;

[a] not take undue advantage of liberty or misuse liberty;

[b] not act in a manner injurious to the interest of the prosecution;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave India without prior permission of the concerned Trial Court;

[e] furnish the present address of 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 this Court;

7. The authorities will release the appellant 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 Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

9. Notice is discharged. Direct service is permitted.