

(2020) 07 GUJ CK 0066

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9696 Of 2020

Gaigashalam S/O Lalmohamad Ansari

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 21-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Gujarat Mines And Miners (Regulation And Development) Act, 1957 — Section 4

Citation : (2020) 07 GUJ CK 0066

Hon'ble Judges : Dr A. P. Thaker, J

Bench : Single Bench

Advocate : Vicky B Mehta, Maithili Mehta

Final Decision : Allowed

Judgement

Dr. A. P. Thaker, J

[1] Heard Mr. Vicky Mehta, learned advocate for the applicant and Ms. Maithili Mehta, learned APP for the respondent State through VideoÂ?

conferencing.

[2] RULE. Learned Additional Public Prosecutor waives service of notice of rule for respondent â?" State.

[3] Rule is fixed forthwith.

[4] The present application is filed under Section 439 of the Code of Criminal Procedure in connection with an FIR being C.R.No. 11211031200153 of

2020 registered with Limbdi Police Station, District: Surendranagar for the offences punishable under Section 4 of the Gujarat Mines and Miners

(Regulation and Development) Act, 1957 and Section 3 of the Gujarat Minerals (Prevention of Illegal Mining, Transportation and Storage), RulesÂ?

2005, 2016 and 2017.

[5] Learned advocate appearing for the applicant submit that the applicant is a driver and in custody since 26.6.2020. He further submits that

considering the nature of evidence, role attributed to the applicant and punishment prescribed, this application for bail may kindly be considered and the applicant may be released on bail on stringent conditions.

[6] Learned Additional Public Prosecutor appearing on behalf of the respondent State has opposed grant of regular bail looking to the nature and gravity of the offence.

[7] Having heard the learned advocates for the parties and perused the materials placed on record and taking into consideration the facts of the case

and the fact that the applicant is a driver, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in

detail, at this stage, this Court is inclined to grant regular bail to the applicant.

[8] This Court has considered following aspects;

(i) The fact that the accused is in jail since 26.6.2020;

(ii) The applicant is only a driver of the vehicle involved in the offence;

[9] This Court has also taken into consideration the law laid down by the Apex Court in the case of Sanjay Chandra Vs. Central Bureau of

Investigation, (2012) 1 SCC 40;

[10] In the result, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an FIR being C.R.No.

11211031200153 of 2020 registered with Limbdi Police Station, District: Surendranagar on executing a personal bond of Rs.10,000/Â (Rupees Ten

Thousands Only) with one local surety of the like amount to the satisfaction of the learned 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 injuries to the interest of the prosecution;

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

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

[e] mark presence before the concerned Police Station on alternate every Monday for initial six months and thereafter, on alternate Monday of every

English calendar month, for a period of six months, between 10:00 a.m. and 2:00 p.m.;

[f] furnish latest 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 the Trial Court;

[11] 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 concerned Trial Court will be free to issue warrant or take appropriate action in the matter. Bail bond to be executed before the Trial 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. At the trial, learned 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. Rule is made absolute accordingly.

[12] Registry is directed to intimate about this order to the concerned authorities through fax, email and/or any other suitable electronic mode. Learned advocate for the applicant is also permitted to intimate about this order to the concerned authorities through fax, email and/or any other suitable electronic mode.