

(2020) 08 GUJ CK 0093
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 10753 Of 2020

Ganesh Tarakant Jha

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 06-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8(C), 20(b), 29

Citation : (2020) 08 GUJ CK 0093

Hon'ble Judges : Vipul M. Pancholi, J

Bench : Single Bench

Advocate : Jinesh H Kapadia, Shivam H Chokshi, Ronak Raval

Final Decision : Allowed

Judgement

Vipul M. Pancholi, J

1. Rule. Learned Additional Public Prosecutor waives service of Rule on behalf of the respondent State.

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being C.R.

No.11197057200888 of 2020 registered with Waghodia Police Station, District Vadodara, for offence under Sections 8(C), 20(b) and 29 of the

Narcotic Drugs and Psychotropic Substances Act.

3. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Learned APP appearing on behalf of the respondent- State has opposed grant of regular bail looking to the nature and gravity of the offence.

5. Learned Advocates appearing on behalf of the respective parties do not press for further reasoned order.

6. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case,

nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is

a fit case to exercise the discretion and enlarge the applicant on regular bail.

7. This Court has considered following aspects,

(a) the applicant is in Jail since 02.07.2020;

(b) remand period is over and investigation is almost concluded qua the applicant;

(c) prohibited substance 278 grams of Ganja was found from the possession of the co-accused Natubhai;

(d) it is submitted that the applicant is not named in the FIR. He is implicated on the basis of the statement of the co-accused;

(e) it is submitted that muddamal quantity of prohibited substance is less than small quantity and punishment prescribed for the alleged offence is one

year;

(f) as submitted by the learned advocate for the applicant that the applicant has no previous history of criminal antecedent;

I have considered the role attributed to the applicant and looking to the facts and circumstances of the present case, I am inclined to consider the case

of the applicant.

8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of

Investigation, reported in [2012] 1 SCC 40.

9. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being C.R.

No.11197057200888 of 2020 registered with Waghodia Police Station, District Vadodara, on executing a personal bond of Rs.10,000/- (Rupees Ten

Thousand only) with one surety of the like amount to the satisfaction of the 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 injurious to the interest of the prosecution;

- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave the India without prior permission of the concerned trial court;
- [e] mark presence before the concerned Police Station between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
- [f] 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 the concerned trial court;
10. The authorities shall adhere to its own Circular relating to COVID-19 and, thereafter, 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 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.
11. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.
12. Rule is made absolute to the aforesaid extent. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.