

(2019) 12 GUJ CK 0080

In the Gujarat High Court

Case No : R/Criminal Misc. Application No. 21749 Of 2019

Girirajsinh @ Giro Jivubha Vala

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 26-12-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 307, 436

Citation : (2019) 12 GUJ CK 0080

Hon'ble Judges : A.Y. Kogje, J

Bench : Single Bench

Advocate : Pratik Y Jasani, JK Shah

Final Decision : Allowed

Judgement

A.Y. Kogje, J

1. This application is filed by the applicants under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR

registered as C.R. No.I-184 of 2019 registered with City B Division Police Station, Jamnagar for the offences punishable under Sections 436, 120B of

the Indian Penal Code.

2. Learned advocate appearing on behalf of the applicants submits that considering the nature of offence, the applicants may be enlarged on regular

bail by imposing suitable conditions.

3. On the other hand, the learned Additional Public Prosecutor appearing for the respondent-State has opposed grant of regular bail looking to the

nature and gravity of the offence.

4. Learned Advocates appearing on behalf of the respective parties do not press

for a further reasoned order.

5. I have heard the learned Advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered :-

I) The FIR is registered on 01.11.2019 for the offence which is alleged to have taken place on 03.10.2019;

II) The applicants are in custody since 03.10.2019;

III) The investigation qua the applicants is concluded as remand period is over;

IV) Submission of learned advocate for the applicants that the FIR is a counter blast to the previous FIR filed by accused no.1 of the present FIR who

had registered an offence under Section 307 of the Indian Penal Code against the applicants;

V) no antecedents are reported against the applicants;

VI) Learned Additional Public Prosecutor under the instructions of the Investigating Officer is unable to bring on record any special circumstances against the applicants.

This Court has taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation reported in [2012] 1 SCC 40.

6. In the facts and circumstances of the case and considering the nature of the allegations made against the applicants in the First Information Report, without discussing the evidence in detail, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicants on regular bail.

7. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with C.R. No.I-184 of 2019

registered with City B Division Police Station, Jamnagar on executing a personal bond of Rs.10,000/= (Rupees Ten Thousand Only) EACH with one

surety of the like amount to the satisfaction of the trial Court and subject to the conditions that they shall;

(a) not take undue advantage of liberty or misuse liberty;

(b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief

with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not leave the State of Gujarat without prior permission of the Trial Court concerned;

(e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) furnish the present address of their 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 Trial Court;

(g) not to enter the limits of Jamnagar City for the period of six months except for marking presence and attending the trial;

9. The authorities will release the applicants only if they are 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.

10. 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 observations of preliminary nature qua the evidence at this stage made by this Court while

enlarging the applicants on bail.

12. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct Service is permitted.