

(2020) 01 GUJ CK 0132
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 22931 Of 2019

Hajisha @ Aliakbar Husensha Mamadsha Shekh

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 15-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 279, 428, 429
Motor Vehicles Act, 1988 — Section 134, 177, 178
Gujarat Animal Preservation (Amendment) Act, 2017 — Section 6(B)(1), 6(B)(2), 6(B)(3), 6(B)(5), 6(B)(8)
Prevention Of Cruelty To Animals Act, 1960 — Section 11(1)(d), 11(1)(e), 11(1)(k)

Citation : (2020) 01 GUJ CK 0132

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

Bench : Single Bench

Advocate : Darshan M Varandani, Ronak Raval

Final Decision : Allowed

Judgement

A.Y. Kogje, J

1. This successive 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-120/2019 with Morbi Taluka Police Station, Morbi for the offences punishable under Sections 279, 428 and 429 of the Indian Penal Code, under Sections 177, 178 and 134 of the Motor Vehicles Act, under Sections 6(B), (1),(2),(3),(5) and (8) of the Gujarat Animal Preservation (Amendment) Act and under Sections 11(1),(e),(k) and (d) of the Prevention of Cruelty to Animals Act.

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 First Information Report is registered on 07.08.2019 for the offence which is alleged to have taken place on 07.08.2019;

II) The applicant No.1 is in custody since 03.09.2019;

III) The applicant No.2 is in custody since 04.09.2019;

III) The investigation has concluded and the chargesheet is filed;

IV) The submission of learned Advocate for the applicants that the applicants are only involved as the truck which was carrying the cattle which met with an accident and which resulted into death of majority of cattle was running in the name of the present applicants in the RTO;

V) No antecedents of similar nature are reported qua the applicant No.1 and;

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

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-120/2019 with Morbi Taluka Police Station, Morbi 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 and shall not obstruct or hamper the police investigation and shall not 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. & 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;

8. 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.

9. 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.

10. 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.

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