

**(2021) 06 GUJ CK 0015**

**In the Gujarat High Court**

**Case No : R/Criminal Misc.Application No. 4014 Of 2021**

Hardik Bijalbhai Parmar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

**Date of Decision : 02-06-2021**

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 120B, 143, 147, 148, 149, 201, 302, 307, 323

Gujarat Police Act, 1951 — Section 135

**Citation : (2021) 06 GUJ CK 0015**

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

**Bench : Single Bench**

**Advocate : Hriday Buch, Nimisha J Parekh, JK Shah**

**Final Decision : Allowed**

## Judgement

B.N. Karia, J

The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR being

C.R.No. 11216011200276 of

2020 registered with Infocity Police Station, District: Gandhinagar for the offence punishable under Sections 302, 307, 323, 143, 147, 148, 149, 120B

and 201 of the Indian Penal Code and Under Section 135 of the Gujarat Police Act.

Learned advocate for the applicant submits that considering the nature of allegations, role attributed to the applicant, the applicant may be enlarged on

regular bail by imposing suitable conditions.

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.

I have heard learned advocates appearing on behalf of the respective parties.

Considering the facts of the case, the charge sheet papers produced on record and arguments advanced by the learned advocate for the applicant as

well as learned APP for the respondent State, it appears that the name of the applicant was not shown in the complaint as well as in the charge sheet

and no case was made out against the present applicant except allegations that the instigation was made by the present applicant to other co-

accused. The weapons shown in the case papers i.e. chhari, bat, dhoka and baseball bat were not recovered from the present applicant nor the

present applicant was seen in the CCTV footage. Considering the statement made by the complainant that the applicant did not give any single blow

to the deceased. It appears that the charge sheet is already filed and the present applicant is in custody since 27.11.2020. The other co-

accused who has played graver role than the present applicant are already released on bail either by the Sessions Court or by this Court. In the charge sheet

also the allegations against the present applicant shows that the role of the present applicant is very less and he did not give any kick and fist blows to

the deceased and he did not cause any injury to the deceased and therefore, as per the opinion of this Court the applicant is required to be enlarged on

regular bail.

In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, I am of the opinion that this

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

Hence, 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.

11216011200276 of 2020 registered with Infocity Police Station, District: Gandhinagar 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 learned Trial Court and subject to the conditions that the applicant 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 State of Gujarat without prior permission of the Sessions Judge concerned;

[e] furnish latest and permanent 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 learned Sessions Court concerned;

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 Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. Bail bond to be

executed before the learned 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. 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 to the aforesaid extent.

This order be communicated to the applicant through Jail Authorities by the registry as well as learned Sessions Court concerned.