

(2020) 01 GUJ CK 0014
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 20839 Of 2019

Harendrasinh Lalsinh Chavda

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 08-01-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Gujarat Prohibition Act, 1949 — Section 65(A)(E), 98(2), 116(B)

Citation : (2020) 01 GUJ CK 0014

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

Bench : Single Bench

Advocate : Nisarg D Shah, HS Soni

Final Decision : Allowed

Judgement

A.Y. Kogje., J

1. This successive application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR registered as C.R. No.III-248/2019 with Mansa Police Station, District Gandhinagar for the offence punishable under Sections 65(A)(E), 98(2) and 116(B) of the Prohibition Act.

2. Learned advocate appearing on behalf of the applicant submits that considering the nature of offence, the applicant 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 16.09.2019 for the offence which is alleged to have taken place on 16.09.2019;

II) The applicant is in custody since 16.09.2019;

III) The investigation has concluded and the chargesheet is filed; IV) Considering the maximum sentence that can be imposed and the quantity of prohibited liquor involved;

V) The applicant is a Constable in the Police Department and;

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

6. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant 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 applicant on regular bail.

7. Hence, the present application is to be released on regular bail allowed. The applicant is ordered in connection with C.R. No.III- 248/2019 with Mansa 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 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 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. and 2.00 p.m.;

(f) furnish the present address of his 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 and;

(g) not enter the limits of Ahmedabad and Gandhinagar for a period of six months, except for marking presence and attending trial.

8. 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.

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 applicant on bail.

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