

(2020) 07 GUJ CK 0120

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9264 Of 2020

Hasmukhbhai Shankarbhai Solanki

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 30-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 109, 117, 120(B), 143, 145, 149, 151, 152, 153, 188, 269, 270, 323, 337, 338, 395, 427, 452, 504
Epidemic Diseases Act, 1897 — Section 3
Gujarat Police Act, 1951 — Section 135
Disaster Management Act, 2005 — Section 51(b)

Citation : (2020) 07 GUJ CK 0120

Hon'ble Judges : Dr A. P. Thaker, J

Bench : Single Bench

Advocate : Malaykumar S Patel, Maithili Mehta

Final Decision : Allowed

Judgement

Dr. A. P. Thaker, J

1. Heard Mr.Patel, learned advocate for the applicant and Ms.Mehta, learned Additional Public Prosecutor for the respondent â?" State through

Video Conferencing.

2. The present application is filed under Section 439 of the Code of Criminal Procedure in connection with an FIR being C.R.No.I â?"

11193024200483 of 2020 registered with Jafarabad Police Station, District: Amreli for the offences punishable under Sections 395, 323, 504, 337, 338,

427, 452, 109, 117, 143, 145, 149, 151, 152, 153, 188, 269, 270, 120(B) and 34 of the Indian Penal Code, under Section 3 of the Epidemic Act, under

Section 135 of the Gujarat Police Act and under Section 51(b) of the Disaster

Management Act.

3. Learned advocate appearing for the applicant submits that almost all the accused have been released on bail by this Court as well as Sessions Court

and main accused who gathered crowd are also enlarged on bail by the Sessions Court. He further submits that on the ground of parity, the present

application may also be considered. He further submits that considering the nature of evidence, role attributed to the applicant and punishment

prescribed, this application for bail may kindly be considered and the applicant may be released on bail on stringent conditions.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent-State has submitted that the applicant may not be released on bail as

he has pelted the stone on the persons of the media. She has opposed grant of regular bail on the grounds that considering the nature and gravity of

the offence.

5. Having perused the materials 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, at this stage, this Court is inclined to grant regular bail to the applicant.

6. This Court has considered following aspects;

(i) That almost all accused are enlarged on bail;

(ii) The fact that the accused is in jail since 15.06.2020;

(iii) The main accused are enlarged on bay by the concerned Sessions Court;

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

Investigation, (2012) 1 SCC 40;

8. In the result, 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.I

â?" 11193024200483 of 2020 registered with Jafarabad Police Station, District: Amreli, on executing a personal bond of Rs.10,000/- (Rupees Ten

Thousand Only) with one local surety of the like amount to the satisfaction of the learned 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 injuries to the interest of the prosecution;

[c] surrender his passport, if any, to the lower court within a week;

[d] not leave the State of Gujarat without prior permission of the concerned Trial Court;

[e] mark presence before the concerned Police Station on alternate every Monday for initial six months and thereafter, on alternate Monday of every

English calendar month, for a period of six months, between 10:00 a.m. and 2:00 p.m.;

[f] furnish latest 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 Trial Court;

9. 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 concerned Trial Court will be free to issue warrant or take appropriate action in the matter. Bail bond to be

executed before the Trial 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 accordingly.

10. Registry is directed to intimate about this order to the concerned authorities through fax, email and/or any other suitable electronic mode. Learned

advocate for the applicant is also permitted to intimate about this order to the concerned authorities through fax, email and/or any other suitable

electronic mode.