

(2023) 01 GUJ CK 0109
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 13960 Of 2022

Indraraj @ Pintu Pavankumar Morya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 20-01-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 302, 450
Gujarat Police Act, 1951 — Section 135

Citation : (2023) 01 GUJ CK 0109

Hon'ble Judges : Vipul M. Pancholi, J; Hemant M. Prachchhak, J

Bench : Division Bench

Advocate : Ashish M Dagli, Hardik Soni

Final Decision : Allowed

Judgement

A.Y. Kogje, J

1. This 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.I-11189005210430 of 2021 with MORBI TALUKA POLICE STATION, MORBI, for the offence punishable under Sections 302, 450 of the Indian Penal Code, under Section-135 of the G.P. 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 F.I.R. is registered on 05-04-2021 for the offence which is alleged to have taken place between 04-04-2021 to 05-04-2021;

II) The applicant is in custody since 07-04-2021;

III) Investigation is concluded and charge-sheet is filed;

IV) Learned Advocate for the applicant submitted that the trial has not commenced, as the charge-sheet frames, but no witnesses have been examined so far.

V) Learned Advocate for the applicant submitted that incident took place on account of the suspected illicit relation between the applicant and the wife of the deceased, for which the applicant was informed by the wife of the deceased that the deceased had hired some persons for killing him. As a result of which, the incident has taken place resulting into the death of the deceased.

VI) From the record, it appears that it was scuffle, which ended into the death of the deceased, as the injury was caused by using of tiles lying in the factory premises.

VII) Learned Advocate for the applicant under the instruction submitted that there are no other antecedents against the applicant;

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

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 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 allowed. The applicant is ordered to be released on regular bail in connection with C.R. No.I-11189005210430 of 2021 with MORBI TALUKA POLICE STATION, MORBI, 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 & 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 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;
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.