

(2019) 12 GUJ CK 0063
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 18818 Of 2019

Ismailkhan Sakhikhan Iqbarkhan Sindhi (Musalman)	APPELLANT
Vs	
State Of Gujarat	RESPONDENT

Date of Decision : 16-12-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Gujarat Prohibition Act, 1949 — Section 65(a)(e), 81, 83, 98(2), 116(B)
Indian Penal Code, 1860 — Section 120(B), 406, 420, 465, 468, 471

Citation : (2019) 12 GUJ CK 0063

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

Bench : Single Bench

Advocate : Tushar Chaudhari, LB Dabhi

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.III-246/2019 with Amirgadh Police Station, District Banaskantha for the offence punishable under Sections 65(a)(e), 116(B),

81, 83 and 98(2) of the Gujarat Prohibition Act, 1949 (as amended vide Gujarat Prohibition Act (Amendment) Act 2017) and under Sections 406, 420,

465, 468, 471 and 120(B) of the Indian Penal Code.

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 10.07.2019 for the offence which is alleged to have taken place on 10.07.2019;

II) The applicant is in custody since 29.08.2019;

III) The investigation has concluded and the chargesheet is filed; IV) The submission of learned Advocate for the applicant that the applicant is arraigned as an accused being the registered owner of the Vehicle which contained the prohibited liquor;

V) The submission of learned Advocate for the applicant that the applicant had sold off the vehicle to another person much before it was involved in the offence 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 allowed. The applicant is ordered to be released on regular bail in connection with C.R. No.III-246/2019 with

Amirgadh Police Station, District Banaskantha 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. & 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.