

(2023) 12 GUJ CK 0025

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 12147 Of 2023

Jaimin @ Jalo Rahulbhai Selar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-12-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 323, 326, 504, 506(2)
Gujarat Police Act, 1951 — Section 135

Citation : (2023) 12 GUJ CK 0025

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : A B Chauhan, Gajendra P Baghel, Shambhukumar, Jirga Jhaveri

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regularbailinconnectionwith C.R.No.11210050230419 of 2023 registered with Rander Police Station, District Surat for the offence punishable under Sections 323, 326, 504, 506(2) and 114 of the Indian Penal Code and under Section 135 of the Gujarat Police Act.

2. Learned advocate Mr. A. B. Chauhan for learned advocate Mr. Gajendra P. Baghel appears for the applicant and submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions. Learned advocate Mr. Chauhan further submits that the so-called incident is occurred on 16.04.2023 and the FIR has been registered on 17.04.2023. The applicant has been arrested on 18.04.2023 and since then he is in judicial custody. The investigation is already completed and present bail application is preferred after submission of the charge-sheet. The FIR has been registered against four accused persons and one juvenile (child in conflict with

law) has been enlarged on bail by the learned trial Court considering the role played by him at the time of commission of crime. It is further submitted that all the offences are exclusively triable by the Court of learned Magistrate. Learned advocate Mr. Chauhan further submits that victim is already discharged from the hospital. Thus, considering the aforesaid factual aspects, the applicant accused may be enlarged on bail by imposing suitable terms and conditions.

3. Learned APP Ms. Jirga Jhaveri appearing on behalf of the respondent-State has objected present bail application with vehemence and submitted that the age of the victim is 16 years and after discharge from the hospital, till date, he is not in a position to speak properly and therefore the investigating officer is not in a position to record his statement. Therefore, the bail application of the applicant accused may not be entertained.

4. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

5. I have heard the learned advocates appearing on behalf of the respective parties. I have perused the police papers and other documents produced by the applicant along with the memo of the application. It is found out from the record that applicant has been arrested on 18.04.2023 and since then he is in judicial custody. The investigation is already completed and present bail application is preferred after submission of the charge-sheet. It is found out from the record that one juvenile (child in conflict with law) has been enlarged on bail by the learned trial Court. All the offences are exclusively triable by the Court of learned Magistrate. The victim is already discharged from the hospital. Considering the overall facts and circumstances of the present case, I am of the opinion that present bail application deserves consideration.

6. This Court has also 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 as well as in case of Satender Kumar Antil v. Central Bureau of Investigation & Anr. reported in (2022)10 SCC 51.

7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, 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.

8. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with C.R.No.11210050230419 of 2023 registered with Rander Police Station, District Surat, on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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;

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

[d] not enter into Surat City except marking presence and attending Court proceedings till the conclusion of the trial;

[e] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;

[f] mark presence before the concerned Police Station once in every English calendar month between 1:00 a.m. and 2:00 p.m. till the conclusion of trial;

[g] furnish the present 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 this 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 Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. 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 present application stands allowed accordingly. Direct service is permitted.