

(2021) 02 GUJ CK 0005

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 17651 Of 2020

Jaiminbhai Kanubhai Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 01-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114, 120B, 406, 419, 420, 465, 467, 468, 471

Citation : (2021) 02 GUJ CK 0005

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

Bench : Single Bench

Advocate : Parvez A Pathan, Pravin Gondaliya, Moxa Thakkar

Final Decision : Allowed

Judgement

Dr. A. P. Thaker, J

[1] Heard learned advocates appearing on both sides through video conferencing.

[2] The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR

No.11197025201144 of 2020 registered with Karjan Police Station, District:Vadodara Rural for the offences under Sections 406, 419, 420, 465, 467, 468, 471, 120-B and 114 of the Indian Penal Code.

[3] Learned advocate for the applicant submits that role of the present applicant is limited and the entire case of the prosecution is based on

documentary evidence. He has also submitted that charge sheet has been filed. According to him, the land in question is still belonging to the

complainant and he is in possession of the land. He has also submitted that allegation against the present petitioner is regarding advise given by him to

other accused and, therefore, consider the role of the petitioner, he may be enlarged on bail on the same line as the other accused has been released.

He also submitted that the petitioner will abide by all the conditions that may be imposed by this Court and prayed to allow present application.

[4] Per contra, Ms.Moxa Thakkar, learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail

and submitted that the petitioner is the prime accused, who has got the bogus documents prepared, which includes Aadhar Card of the original

complainant and has also paid amount to the person concerned for preparing such Aadhar Card. She has also submitted that there were video calls,

which show that the petitioner is primer accused and entire incident has happened because of him. According to her, the accused, who have been

released on bail, have not paid active role in the offence and the petitioner is the mastermind. She submitted that the petitioner is the person, who

advised the accused-Yogesh to abscond and, therefore, considering the seriousness of the offence, he may not be enlarged on bail and the application

may be rejected.

[5] Mr.Pravin Gondaliya, learned advocate for the original complainant has supported the arguments advanced by learned APP. He further submitted

that so far as other accused are concerned, their role is not similar to the applicant. He also submitted that due to insistence of the petitioner, bogus

Aadhar Card and other documents have been prepared. He also submitted that the petitioner is mastermind and he has advised one accused to flee.

He, therefore, prayed to dismiss present application.

[6] I have heard learned advocates appearing on behalf of the respective parties. Learned advocates appearing on behalf of the respective parties do

not invite reasoned order. Having considered the role attributed to the petitioner and the material placed on record, which includes talks between

Yogesh and Chaman and other phone call details, it appears that role of the present petitioner is about giving advise to flee. It also appears that at the

instruction of the first accused, he has contacted the person, who has prepared bogus Aadhar Card of the original complainant and has paid the

amount. This Court has considered following aspects:-

(i) The applicant is in jail since 31.7.2020.

(ii) Investigation is over and charge sheet is filed in this case.

(iii) There is no need of custodial interrogation of the applicant.

(iv) The other accused have been enlarged on bail.

(v) This Court has also considered the law laid down by Apex Court in the case of Sanjay Chandra Vs. Central Bureau Investigation, reported in

(2012) 1 SCC 40.

(vi) This Court has also taken into consideration the assurance given on behalf of the applicant that he will abide by all conditions that may be imposed

by this Court.

[7] In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, I am of the opinion that

this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, the present application is allowed and the applicant is

ordered to be released on regular bail in connection with an FIR being FIR No.11197025201144 of 2020 registered with Karjan Police Station,

District:Vadodara Rural 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 learned Trial Court and subject to the conditions that the applicant 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 leave the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] not enter in local limits of Vadodara District for a period of six months, except for attending Court proceedings or police investigation;

[f] shall mark presence on alternative Monday for a period of six months to the nearest Police Station, where he is going to reside for six months and

after entering into Vadodara District, mark presence with the concerned Police Station on alternate Monday for a period of six months between 10.00

a.m and 2.00 p.m.

[g] furnish latest and permanent 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;

[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. Bail bond to be executed before the learned 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. 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.

[9] Rule is made absolute to the aforesaid extent. Registry is directed to serve this order to the concerned authority through e-mail/fax or any other electronic mode.