

(2024) 04 GUJ CK 0044

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 4591 Of 2024

Jayeshbhai Dhanjibhai Bariya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 12-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Gujarat Control Of Terrorism And Organised Crime Act, 2015 — Section 2(1)(C)

Citation : (2024) 04 GUJ CK 0044

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : ?Urvashi K Mehta, L B Dabhi

Final Decision : Allowed

Judgement

@JUDGEMENTTAG-JUDGMENT

Divyesh A. Joshi, J

1. RULE. Learned APP waives service of rule for the respondent-State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being C.R.NO. 11186008230216 of 2023 registered with Una Police Station, Gir-Somnath.
3. Learned advocate appearing on behalf of the applicant submits that in present case, the investigation is over and charge-sheet is filed. In present case, the FIR is filed against 4 unknown persons. During the course of investigation, on the basis of statement of co-accused, the present applicant came to be arrested, and thereafter, subsequently, charge-sheeted.
- 3.1 Learned advocate for the applicant has submitted that at time of submission of charge-sheet against the accused persons, provisions of GCTOC were invoked by the prosecuting agency and at that time, they have placed reliance upon total

six offences registered against the present applicant. She further submitted that the applicant has already been acquitted in all those offences, and therefore, invocation of provision of Section 2(1)(C) of the GCTOC would not come into play so far as case against present applicant is concerned.

4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail, inter alia, contending that present applicant – accused is one of the members of syndicate and his active involvement is found in commission of the offence in question. During the course of investigation, it is found out that the present applicant was in constant touch with the other co-accused and there are more than 39 offences registered against the entire gang. He, therefore, submitted to dismiss the present application.

5. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. In present case, the investigation is over and charge-sheet has been filed. This Court has considered the fact that the present applicant has been acquitted from all six offences registered against him. It is also found out from the record that there is no recovery and discovery at the instance of the present applicant-accused. The FIR is registered against the total 4 unknown persons, and thereafter, subsequently, on the strength of statement made by the co-accused before the Investigating Officer, the present applicant-accused has been arraigned as accused.

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.

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. The applicant is ordered to be released on regular bail in connection with FIR being C.R.NO. 11186008230216 of 2023 registered with Una Police Station, Gir-Somnath, 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 & 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;

(g) not enter Dist:Rajkot for the period of 12 months except for the purpose of marking presence before the concerned Police Station and attending the trial proceedings.

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.

10. 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.

11. 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.

12. Rule is made absolute to the aforesaid extent. Direct service is permitted.