

(2024) 06 GUJ CK 0014

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 9938 Of 2024

Kalpesh Omprakash Mewada & Anr

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-06-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 06 GUJ CK 0014

Hon'ble Judges : M. K. Thakker, J

Bench : Single Bench

Advocate : Vishvajitsinh D Chauhan, Kishan Prajapati, A.V.Patel

Final Decision : Allowed

Judgement

M. K. Thakker, J

1. RULE. Learned APP Ms.A.V.Patel 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.11209020230016 of 2023 registered with Idar Police Station, District Sabarkantha.
3. Learned Advocate Mr.Prajapati appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.
4. Learned APP Ms.Patel appearing on behalf of the respondent-State has opposed grant of regular bail and further submitted that one antecedent is reported against applicant No.1 in the year 2022
5. This Court has heard the learned advocates appearing on behalf of the respective parties and perused the papers.

6. Following aspects are considered for granting bail:

(a) Applicant No.2 is the driver and No.1 loaded the Muddamal on vehicle.

(b) Offence is triable by learned Court of Magistrate and maximum punishment is of 10 years.

(c) Co-accused who is the owner of the vehicle was enlarged by this Court vide order dated 31-07-2023.

(d) Chargesheet is filed.

7. 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.

8. 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.

9. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being C.R.NO.11209020230016 of 2023 registered with Idar Police Station, District Sabarkantha 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 his passport, if any, to the Trial Court within a week from the date of his actual release;

d) not leave the State of Gujarat without prior permission of the Trial Court concerned;

e) mark his 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 the area of Idar Police Station, Sabarkantha till conclusion of trial except for the purpose of marking presence before the concerned Police Station and attending the trial proceedings.

10. 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.

11. 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.

12. 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.

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