

(2021) 02 GUJ CK 0010
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 904 Of 2021

Kalusinh Javansinh Rajput

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 01-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8(c), 20(b), 29

Citation : (2021) 02 GUJ CK 0010

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

Bench : Single Bench

Advocate : Hardik K Raval, Moxa Thakkar

Final Decision : Allowed

Judgement

Dr. A. P. Thaker, J

[1] Heard Mr. Hardik Raval, learned advocate for the applicant and Ms. Moxa Thakkar, learned Additional Public Prosecutor for the respondent â?

State through Video Conferencing.

[2] The present application is filed under Section 439 of the Code of Criminal Procedure in connection with an FIR being C.R.No.11209020201326 of

2020 registered with Idar Police Station, District: Sabarkantha for the offences punishable under Sections 8(c), 20(b) and 29 of the Narcotic Drugs

and Psychotropic Substance Act.

[3] Learned advocate appearing for the applicant submits that the charge-sheet has already been filed. He has further submitted that the accused is in

jail since 22.9.2020. He has also submitted that the present applicant is implicated on the basis of the statement of the co-accused. According to him,

the other co-accused has been enlarged on bail on medical ground. He has submitted that 3.977 kg quantity of Ganja has been seized in the said offence but nothing is found from his possession. He has further submitted that there is no criminal antecedent against the applicant and the applicant will abide by all the conditions imposed upon by this Hon'ble Court. He has prayed that this application for bail may kindly be considered and the applicant may be released on bail on stringent conditions.

[4] Ms. Moxa Thakkar, learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail on the grounds that the other accused was enlarged on bail on medical ground. She has further submitted that considering the seriousness of the offence under the NDPS Act, the Hon'ble Court may not exercise its jurisdiction.

[5] Having heard the learned advocates for the parties and perused the materials placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, at this stage, this Court is inclined to grant regular bail to the applicant.

[6] This Court has considered following aspects;

- (i) That other co-accused is enlarged on bail;
- (ii) The fact that the accused is in jail since 22.09.2020;
- (iii) The investigation is over and the charge-sheet is led;
- (iv) No necessity of custodial interrogation;
- (v) the quantity of Ganja being 3.997 kg which was seized from the possession of main accused;
- (vi) the entire case is based on statement of the co-accused;
- (vii) The assurance given by the learned advocate for the applicant that the applicant will abide by all the conditions which may be imposed by the Court.

[7] This Court has also taken into consideration the law laid down by the Apex Court in the case of Sanjay Chandra Vs. Central Bureau of Investigation, (2012) 1 SCC 40;

[8] In the result, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an FIR being

C.R.No.11209020201326 of 2020 registered with Idar Police Station, District: Sabarkantha, on executing a personal bond of Rs.10,000/-(Rupees Ten

Thousands Only) with one local surety of the like amount to the satisfaction of the learned 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 his passport, if any, to the lower court within a week;

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

[e] mark presence before the concerned Police Station on alternate every Monday for initial six months and thereafter, on alternate Monday of every

English calendar month, for a period of six months, between 10:00 a.m. and 2:00 p.m.;

[f] furnish latest 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 the Trial 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 concerned Trial Court will be free to issue warrant or take appropriate action in the matter. Bail bond to be

executed before the Trial 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. Rule is made absolute accordingly.

[10] Registry is directed to intimate about this order to the concerned authorities through fax, email and/or any other suitable electronic mode. Learned

advocate for the applicant is also permitted to intimate about this order to the concerned authorities through fax, email and/or any other suitable

electronic mode.