

(2024) 05 GUJ CK 0081

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - Before Chargesheet)
No. 9259 Of 2024

Kamal Alias Shani Ashwinbhai Sharma

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 27-05-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 05 GUJ CK 0081

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

Bench : Single Bench

Advocate : Jitendra Malkan, Faijan. H. Memon, H.K. Patel

Final Decision : Allowed

Judgement

M. K. Thakker, 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.11993006240324 of 2024 registered with Gandhidham A Division Police Station, East Kutch, Gandhidham.
3. Learned Advocate Mr. Jitendra Malkan appearing on behalf of the applicant submits that considering the offence alleged under the Arms Act having three years punishment, no antecedent is reported, the pistol which was recovered was not used for any offence and investigation is almost concluded, the applicant may be enlarged on regular bail by imposing suitable conditions.
4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail.
5. This Court has heard the learned advocates appearing on behalf of the respective parties and perused the papers.

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. 11993006240324 of 2024 registered with Gandhidham A Division Police Station, East Kutch, Gandhidham, 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 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 the area of Gandhidham A Division Police Station, East Kutch, Gandhidham till conclusion of trial 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.