

(2023) 07 GUJ CK 0067

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 10983 Of 2023

Keshabhai Babubhai Solanki

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 27-07-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114, 120B, 379

Mines And Minerals (Development And Regulation) Act, 1957 — Section 4(a), 21

Citation : (2023) 07 GUJ CK 0067

Hon'ble Judges : Nirzar S. Desai, J

Bench : Single Bench

Advocate : Yash K Dave, Vishal K Anandjiwala, Hardik Soni

Final Decision : Allowed

Judgement

Nirzar S. Desai, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being CR No. 11189001230175 of 2023 registered with Halvad Police Station, Morbi for offences under Sections 379, 120-B and 114 of the Indian Penal Code and u/s. 4(a) and 21 of the Mines and Minerals Development & Regulation Act, 1955.

2. Learned Advocate appearing for the applicants submit that considering the nature of the offence, the applicants may be enlarged on regular bail by imposing suitable conditions.

3. Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

4. Learned Advocates appearing on behalf of the respective parties do not press for further reasoned order.

5. Having heard the learned advocates for the parties and perusing the material 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, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicants on regular bail.

6. This Court has considered following aspects:-

(a) the applicants are in jail since 3.4.2023.

(b) investigation is over and charge-sheet is filed.

(c) The applicants are alleged to be driver of the vehicle whereby, illegal minning were transported.

(d) No antecedent is reported against the applicants as submitted by learned Advocate for the applicants.

(g) Upon instructions, Mr.Anandjiwala, learned advocate for the applicants states that each of the applicants are ready and willing to deposit Rs.2.00 Lakhs before the trial Court within a period of two weeks from the date of their actual release and an undertaking shall also be filed before the trial Court.

7. In the facts and circumstances of the present case, I am inclined to consider the case of the present applicants.

8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of Investigation, reported in [2012] 1 SCC 40.

9. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with FIR being CR No. 11189001230175 of 2023 registered with Halvad Police Station, Morbi on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand only) each with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that they 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 concerned trial court;

[e] mark presence before the concerned Police Station between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present addresses 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

10. The authorities will release the applicants 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 lower Court having jurisdiction to try the case. It will be open for the concerned Sessions 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 prima facie observations made by this Court in the present order.

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