

(2024) 02 GUJ CK 0021

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - Before Chargesheet)
No. 2048 Of 2024

Keval Pravinbhai Khambhayata

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-02-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 406, 420

Citation : (2024) 02 GUJ CK 0021

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Pratik Y Jasani, Dhawan Jayswal

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. Rule. Learned APP waives service of notice of Rule for and on behalf of respondent – State.

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with C.R.No.11208055230189 of 2023 registered with DCB Police Station, Rajkot City for the offence punishable under Sections 406, 420 and 120B of the Indian Penal Code.

3. Learned advocate Mr. Majmudar 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. It is submitted that applicant has been arrested on 30.12.2023 and since then he is in judicial custody. It is further submitted that investigation is substantially over. Learned advocate Mr. Pratik Jasani further submits that all the offences are exclusively triable by the Court of Magistrate. It is further submitted that applicant was not named in the FIR. There is no past antecedent against the applicant. During the course of

investigation, it has come on surface that the amount is transferred in the account of the applicant during the period of last four years. Learned advocate Mr. Jasani further submits that without prejudice to his rights and contentions, applicant is ready and willing to deposit Rs.3,50,000/- (Rupees three lakh fifty thousand only) before the concerned trial Court within a period of 8 weeks from the date of his release. An undertaking to that effect is also filed by the father of the applicant, which is taken on record. It is further submitted that applicant shall also file an undertaking to the aforesaid effect before the concerned trial Court within a period of one week from the date of his release. Thus, applicant may be enlarged on bail.

4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

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

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. It is found out from the record that applicant has been arrested on 30.12.2023 and since then he is in judicial custody. The investigation is substantially over. That all the offences are triable by the Court of Magistrate. Learned advocate Mr. Jasani submits that without prejudice to his rights and contentions, applicant is ready and willing to deposit Rs.3,50,000/- (Rupees three lakh fifty thousand only) before the concerned trial Court within a period of 8 weeks from the date of his release. An undertaking to that effect is also filed by the father of the applicant. It is further submitted that applicant shall also file an undertaking to the aforesaid effect before the concerned trial Court within a period of one week from the date of his release. Thus, considering the aforesaid factual aspects, I am inclined to consider this application.

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 as well as in case of Satender Kumar Antil v. Central Bureau of Investigation & Anr. Reported in (2022)10 SCC 51.

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 and the applicant is ordered to be released on regular bail in connection with C.R.No.11208055230189 of 2023 registered with DCB Police Station, Rajkot City, 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;
- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;
- [e] mark presence before the concerned Police Station on alternate Monday 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 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 this Court;
- [g] file an undertaking before the learned trial court within a period of one week from the date of his release to the effect that, without prejudice to his rights and contentions, he shall deposit Rs.3,50,000/-(Rupees three lakh fifty thousand only) before the concerned trial Court within a period of eight weeks from the date of his release;
- [h] adhere to the aforesaid undertaking;

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. 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. The present application stands allowed accordingly. Rule is made absolute. Direct service is permitted.