

(2024) 04 GUJ CK 0026
In the Gujarat High Court

Case No : R/Criminal Appeal (For Anticipatory Bail) No. 711 Of 2024

Krunalsinh Vikramsinh Jetavat

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 03-04-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 14A

Code Of Criminal Procedure, 1973 — Section 438

Citation : (2024) 04 GUJ CK 0026

Hon'ble Judges : J. C. Doshi, J

Bench : Single Bench

Advocate : HB Champavat, Tanvir Y Malek, HK Patel

Final Decision : Allowed

Judgement

@JUDGEMENT- JUDGEMENT

J. C. Doshi, J

1. The present appeal is filed under Section 14A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Atrocities Act") read with Section 438 of the Code of Criminal Procedure, 1973, the appellant accused has prayed to release him on anticipatory bail in the event of their arrest in connection with the FIR being C.R. No.11209020240289 of 2024 with Idar Police Station, Sabarkantha.

2. Learned advocate for the appellant submits that considering the nature of allegations, role attributed to the appellant, the appellant may be enlarged on anticipatory bail by imposing suitable conditions.

3. Learned Additional Public Prosecutor appearing on behalf of the respondent-State have opposed grant of anticipatory bail looking to the nature and gravity of the offence. Upon such submissions, both the learned advocates pray to dismiss the appeal.

4. Learned advocate for the complainant is present along with the complainants. The complainants have filed their affidavits before the Court. The relevant paragraph of the said affidavit filed by victim Khimjibhai Dalaji Gameti are reproduced as under:

"2. I say that due to the intervention of family members, elders and other community members, I have settled the matter with the present appellant.

3. I say that the matter is settled with the present appellant without any pressure and on my own free will and consent. I further say that all the misunderstandings between us have been cleared.

4. I say that therefore, in view of the aforesaid fact and circumstances, if the present appeal is allowed and the appellant is enlarged on anticipatory bail then I have no objection."

5. Heard the learned Advocates for the respective parties and perused the papers.

6. Having heard the learned counsel for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused, without discussing the evidence in detail, at this stage, I am inclined to exercise discretion in favour of the appellant for the following reasons : -

(I) In view of the affidavit filed by the victim , they have settled their dispute with the present appellant. It is stated by the victim that there was some misunderstanding between him and the appellant and due to intervention of family members and elders, the dispute is settled between the parties.

7. In above consideration, the appellant has made out prima facie case to get the anticipatory bail. This Court is conscious that statutory bar is operating while granting anticipatory bail under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. But looking to the above reasons along with prima facie case, nature and gravity of the accusation and severity of the punishment as well as absence of flight-risk character, behaviour, means and position of the accused as well as non-likelihood of the offence being repeated and taking assistance of the judgment of the Hon'ble Apex Court in the case of Prithviraj Chauhan vs Union of India, reported in (2020) 4 SCC 727, this is a fit case to exercise jurisdiction.

8. Considering the aforesaid aspects and the law laid down by the Hon'ble Apex Court in the case of Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors. reported in (2011) 1 SCC 6941, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of Shri Gurubaksh Singh Sibbia & Ors. reported in (1980) 2 SCC 665 and also the decision in the case of Sushila Aggarwal v. State (NCT of Delhi) reported in (2020) 5 SCC 1, I am inclined to allow the present appeal.

9. In the result, the present appeal is allowed by directing that in the event of

appellant herein being arrested in connection with the FIR being C.R. No.11209020240289 of 2024 registered with Idar Police Station, Sabarkantha, the appellant shall be released on bail on furnishing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of like amount on the following conditions that they:

- (a) shall cooperate with the investigation and make himself available for interrogation whenever required;
- (b) shall remain present at the concerned Police Station on 15.04.2024 and 16.04.2024 between 11.00 a.m. and 2.00 p.m. and the IO shall ensure that no unnecessary harassment or inconvenience is caused to the appellant;
- (c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- (d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- (e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change his residence till the final disposal of the case till further orders;
- (f) shall not leave India without the permission of the Court and if having passport shall deposit the same before the Trial Court within a week; and
- (g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide it on merits.

10. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the appellant on bail. It is needless to say, the observations made hereinabove are only tentative in nature and the trial Court shall not be influenced by the aforesaid observation.

Direct service is permitted.