

(2022) 08 GUJ CK 0056

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 14822 Of 2022

Kuldeepbhai Ramkubhai Khachar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 10-08-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Gujarat Prohibition Act, 1949 — Section 65AE, 81, 98(2)

Citation : (2022) 08 GUJ CK 0056

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Pawan A Barot, Sweta P Barot, M.H.Bhatt

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. Heard learned advocate for the applicant and learned APP for the respondent – State.
2. Rule. Learned APP waives service of notice of rule for and on behalf of respondent – State.
3. The applicant, by way of this application filed under Section 439 of the Code of Criminal Procedure, seeks regular bail in connection with the FIR being C.R.No. 11213021220420 of 2022 registered with Jasdan Police Station, Dist. Rajkot Rural for the offence punishable under Sections 65(e), 98(2) & 81 of the Prohibition Act.
4. It is the submission of learned counsel for the applicant that he is suffering confinement since 16.07.2022. Hence, further detention of the applicant is unwarranted.
5. Learned APP has opposed the bail application contending that, considering the conduct of the applicant and nature of accusation, the discretion may not be

exercised in favour of the applicant.

6. Having considered the contents of the FIR and materials available on record, it appears that the applicant herein was caught red-handed by the raiding officer with the contraband liquor amounting to Rs.8,000/-. The co-accused, who having similar role, has already been granted bail by the Court concerned. Learned APP pointed out the past antecedent against the applicant. Under such circumstances, when investigation is virtually over qua him and the prosecution has not pointed out that further custody of the applicant is necessary, keeping behind the bar of the applicant, no purpose would be served. Considering the past antecedent of one offence, imposing stringent condition, without expressing anything on the merits of the case, the application deserves consideration. Accordingly, the application is allowed with a condition that the applicant shall not leave taluka Sayla for a period of one year except attending the Court proceedings and marking presence before the concerned police station, if any.

7. Hence, present application is allowed and the applicant is ordered to be released on regular bail in connection with the FIR being C.R.No. 11213021220420 of 2022 registered with Jasdan Police Station, Dist. Rajkot Rural on executing a personal bond of Rs.10,000/- (Rupees Ten thousands only), with one surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that he shall;

No.

Conditions

(a)

not take undue advantage of liberty or misuse

liberty;

(b)

not act in a manner injuries to the interest of

the prosecution;

(c)

surrender passport, if any, to the lower court

within a week;

(d)

not leave India without prior permission of the

Sessions Judge concerned;

(e)

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;

(f)

mark presence before the concerned Police Station on first Monday of every English calendar month, between 10:00 a.m. and 2:00

p.m till filing of the chargesheet;

(g)

not leave taluka Sayla for a period of one year except attending the Court proceedings and marking presence before the concerned police station, if any.

8. The authorities shall release the applicant if he is not required in connection with the any other offences. If breach of any above condition is committed, the learned Sessions Judge concerned shall take appropriate action or issue warrant against the applicant. The bail bond to be executed before the learned trial Court having jurisdiction to try the case. It will be open for the sessions judge concerned to delete, modify and/or relax any of the above conditions, in accordance with law. Rule is made absolute to the aforesaid extent.

9. Nothing stated hereinabove, shall tantamount to the expression of any opinion on the merits of this case. Registry to send a copy of this order to the concerned Jail Authority as well as learned Sessions Court forthwith through fax and e-mail.

Direct service is permitted.