

(2022) 10 GUJ CK 0101

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 18949 Of 2022

Madabhai Arjanbhai Solanki

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 17-10-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 427, 504, 506(2)
Gujarat Land Grabbing (Prohibition) Act, 2020 — Section 3, 4(1), 4(3), 5(c)

Citation : (2022) 10 GUJ CK 0101

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Yash K Dave, Vishal K Anandjiwala, LB Dabhi, BS Patel, Chirag Patel

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. Mr.Chirag Patel, learned advocate states that he has received instructions to appear for and on behalf of the informant and he shall file his Vakalatnama in the Registry. Registry is directed to accept the same.

2. Rule. Learned APP waives service of notice of Rule for and on behalf of the respondent – State and Mr.Chirag Patel, learned advocate waives service of notice of Rule for and on behalf of the complainant.

3. The applicants, by way of this application filed under Section 439 of the Code of Criminal Procedure, seek regular bail in connection with the FIR being C.R. No.11187002220580 of 2022 registered with Balasinor Police Station, Dist.: Mahisagar, for the offences punishable under Sections 427, 504, 506(2) and 114 of the Indian Penal Code and Sections 3, 4(1), 4(3) and 5(c) of the Gujarat Land Grabbing Act.

4. It is the submission of learned counsel for the applicants that the applicants are in judicial custody since 26.09.2022. He further submitted that considering

the role attributed to the present applicants, the applicants may be enlarged on regular bail on any terms and conditions.

5. Learned APP has opposed the bail application contending that, considering the conduct of the applicants and nature of accusation, the discretion may not be exercised in favour of the applicants.

6. Having heard learned advocates for the respective parties and upon perusal of material placed on record, it appears that civil dispute with the competent court is pending between the parties. Learned advocate for the applicant on instructions states that till finality of the criminal case, the applicant will not enter into disputed land and also filed an Undertaking to this effect before the Court concerned as well as this Court, within a period of ten days from their release. In such circumstances, without expressing on merits of the case, imposing stringent conditions, the matter deserves consideration. Hence, the bail application is allowed.

7. Hence, the bail application is allowed and the applicants are ordered to be released on regular bail in connection with the FIR being C.R. No.11187002220580 of 2022 registered with Balasinor Police Station, Dist.: Mahisagar, on executing a personal bond of Rs.10,000/-(Rupees Ten thousands only) each, with one surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that they shall:

No

Conditions

(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)

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 every alternate Monday between 11:00 a.m. and 01:00 p.m. till filing of the chargesheet.

(g)

not enter into disputed land till finality of criminal case and also file an Undertaking to this effect before the Court concerned as well as this Court within a period of ten days from their release. If the applicant is failed to file an Undertaking to this effect and if he will breach any of the conditions imposed by this Court, bail granted by this Court would stand cancelled automatically.

8. The authorities shall release the applicants if they are not required in connection with the any other offence. If breach of any above condition is committed, the Sessions Judge concerned shall take appropriate action or issue warrant against the applicants. 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. Nothing stated hereinabove, shall tantamount to the expression of any opinion on the merits of this case. Rule is made absolute to the aforesaid extent. Direct Service is permitted.