

(2022) 05 GUJ CK 0033

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 8759 Of 2022

Madinkhan Yasinkhan Malek

APPELLANT

Vs

State Of Gujarat & 2 Other(S)

RESPONDENT

Date of Decision : 10-05-2022

Acts Referred:

Citation : (2022) 05 GUJ CK 0033

Hon'ble Judges : Niral R. Mehta, J

Bench : Single Bench

Advocate : Sajid Y Kariyaniya, JK Shah

Final Decision : Partly Allowed

Judgement

Niral R. Mehta, J

1. In the facts and circumstances of the case, Rule, returnable forthwith. Learned Additional Public Prosecutor Mr.J.K. Shah waives service of notice of Rule on behalf of the respondent-State.

2. The applicant has approached this Court with the following reliefs.

(a) To admit the petition;

(b) Your Lordship may be grant temporary bail for the period of 7 days in connection with F.I.R. being C.R. No.11211058210131 of 2021 registered with Bajana Police Station, Surendranagar;

(c) Pending hearing, admission and final disposal of this petition, to grant temporary bail for the period of 10 days in connection with F.I.R. being C.R. No.11211058210131 of 2021 registered with Bajana Police Station, Surendranagar;

(d) Be pleased to pass such other and further order or orders as may be deemed necessary by this Hon'ble Court in the facts and circumstances of the case.

3. Learned advocate for the applicant Mr.Sajid Kariyaniya, at the outset, has sated that the applicant would be satisfied if the order dated 07th May, 2022 passed in Criminal Miscellaneous Application No.131 of 2022 passed by learned 3rd Additional Sessions Judge, Dhrangadhra is suitably modified by converting two ready solvency of Rs.50,000/- to regular bail bond of Rs.10,000/-.

4. Learned advocate for the applicant submitted that the Sessions Court has granted bail to the applicant for one day on 11th May, 2022 from 08.00 a.m. till 06.00 p.m. for the purpose of his engagement. However, while granting temporary bail, condition was imposed by the Sessions Court to furnish two ready solvency of Rs.50,000/- each. It is submitted by learned advocate for the applicant that the said condition is not only onerous but it is time consuming and considering the fact that engagement is scheduled on 11th May, 2022, in such a short time, solvency certificate is not likely to be issued by the competent authority. Learned advocate further submitted that by imposing the above condition, virtually bail has been denied to the applicant. He, therefore, humbly requests this Court to modify the said condition in the interest of justice.

5. Per contra, learned Additional Public Prosecutor has vehemently opposed other prayers made in the application. However, has not opposed the prayer to convert the two ready solvency of Rs.50,000/- to bail bonds.

6. Considering the submissions advanced by learned advocates for the respective parties, it is true that solvency of Rs.50,000/- requires certificate from the competent authority. To obtain solvency certificate, there is a procedure prescribed and the same is time consuming.

6.1 Considering the fact that engagement of the present applicant is scheduled on 11th May, 2022 and the order is passed by learned 3rd Additional Sessions Judge on 07th May, 2022, time gap between the two is very short within which solvency certificate is not likely to be issued. In this view of the matter, in my considered opinion, if the order passed by the Sessions Court is modified and the condition of solvency certificate is converted to bail bonds, it will meet the ends of justice.

7. In the result, present application is partly allowed.

The order dated 07th May, 2022 passed by learned 3rd Additional Sessions Judge, Dhrangadhra in Criminal Miscellaneous Application No.131 of 2022 is hereby modified to the extent that applicant shall furnish bail bond of Rs.10,000/- (Rupees Ten Thousand Only) instead of furnishing two ready solvency of Rs.50,000/- each.

8. Rule is made absolute accordingly. Direct service is permitted, today.