

(2022) 11 GUJ CK 0002

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 20120 Of 2022

Maheshbhai Chanabhai Khut (Patel)

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 01-11-2022

Acts Referred:

Citation : (2022) 11 GUJ CK 0002

Hon'ble Judges : Sandeep N. Bhatt, J

Bench : Single Bench

Advocate : K S Chandrani, Dhawan Jaiswal

Final Decision : Disposed Of

Judgement

Sandeep N. Bhatt, J

Undertaking filed by the petitioner is taken on record.

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

2. By way of the present petition, the petitioner seeks quashing of non-bailable warrant issued by the learned 14th Additional Sessions Judge, Gondal in Sessions Case No.4 of 2014 in connection with the pending complaint filed under the provisions of the Indian Penal Code and the Damages to Public Properties Act.

3. Heard Mr.K.S.Chandrani, learned counsel for the petitioner and Mr. Dhawan Jaiwal, learned APP for the respondent State.

4. Learned counsel for the petitioner assured this Court that the petitioner will remain present on each date of the proceedings before the concerned Court and will not change residential house without prior permission of the learned trial Court. Learned counsel has also tendered an undertaking before the Court with an assurance to the aforesaid extent. The same is taken on record.

5. It is settled law that non-bailable warrant should normally not to be issued if

presence of the accused could be secured. The order could be issued when the person will not voluntarily appear in Court or police authorities are unable to find the person to serve him with a summon. The Court should avoid issuance of non-bailable warrant in the first instance to secure presence of the accused and it should be applied as a last resort.

6. Considering the facts and circumstances of the present case, this Court is of opinion that non-bailable warrant deserves to be converted into bailable warrant. Accordingly, the non-bailable warrant issued in this case is converted into bailable warrant, on condition that the petitioner shall execute personal bond of Rs.15,000/- and one surety of like amount to the satisfaction of the trial Court and further conditions that the petitioner shall:

(i) remain present before the trial Court on 10.11.2022;

(ii) abide by the terms of the undertaking submitted before this Court, failing which the trial court concerned shall be at liberty to initiate appropriate proceedings in accordance with law.

(iii) not change his residential address without prior permission of the learned trial Court, and also, he shall provide her Mobile Number;

7. This Court makes it clear that if the petitioner shall breach any of the conditions, the learned trial Court shall take appropriate steps in accordance with law.

8. In the aforesaid observations and directions, the present petition stands disposed of. Rule is made absolute to the aforesaid extent. Direct service is permitted.