

(2024) 04 GUJ CK 0059

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - Before Chargesheet)
No. 6842 Of 2024

Malabhai Punmaji Rabari & Anr

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 16-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 04 GUJ CK 0059

Hon'ble Judges : M. R. Mengdey, J

Bench : Single Bench

Advocate : Viraj B Khatana, Krina P. Calla

Final Decision : Allowed

Judgement

M. R. Mengdey, J

1. Rule. Learned APP waives service of notice of Rule on behalf of respondent-State.
2. This application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. No.11195050240125 of 2024 registered with Tharad Police Station, District Banaskantha.
3. Learned advocate for the applicants submits that considering the nature of offence and role attributed to the applicants, the applicants may be enlarged on regular bail by imposing suitable conditions.
4. The learned APP appearing for the respondent State vehemently submits that the present applicants herein had abducted the victim who got married to the first informant against their wish. Thus, there was active participation of the present applicants in commission of alleged offence in question. She therefore submits that the offences which have been charged, are serious in nature and looking to the facts as well as the allegations made against the applicants, no

discretion would be required to be exercised.

5. Learned advocate Mr. Hitesh Pandya submits that he has received instructions to appear on behalf of the first informant and he will be filing his Vakalatnama before the Registry. He submits that the dispute between the parties is amicably settled and the original complainant has no objection, if the applicants are enlarged on bail. The affidavits dated 06.04.2024 to the said effect are produced on record (which are ordered to be taken on record). He therefore submits that an appropriate order may be passed.

5. I have heard learned advocates appearing for the parties. It appears from the record that the victim had married to the first informant against the wish of family members and therefore, her family members abducted her and had taken her to their house. Thereafter, the present F.I.R. had been lodged by her husband. As per statement made by learned advocate for the first informant, the dispute is amicably settled between the parties and affidavits to the said effect are produced on record. Having regard to the seriousness of offences and allegations levelled against the present applicants, the present application deserves to be allowed.

6. In the facts and circumstances of the case and considering the nature of allegations made in the FIR and without discussing the evidence in details as well as without going into details, prima-facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the applicants on bail. Hence, the application is allowed and the applicants are ordered to be released on bail in connection with the aforesaid FIR, on executing a bond of Rs.10,000/- (EACH) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that;

(a) 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 from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

(b) shall maintain law and order and not to indulge in any criminal activities.

(c) shall furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change residence without prior permission of the trial Court.

(d) shall provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the trial Court.

(e) shall file an affidavit stating immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any.

(f) shall not leave India without prior permission of the Trial Court

(g) surrender passport, if any, to the Trial Court within a week. If accused does not possess passport, shall file an Affidavit to that effect.

7. The authorities concerned shall release the applicants only if they are not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter. Bail bond to be executed before the lower court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions in accordance with law.

8. At the trial, the concerned trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

9. Rule made absolute to the aforesaid extent. Direct service is permitted.