

(2020) 10 GUJ CK 0030
In the Gujarat High Court
Case No : R/Criminal Appeal No. 946 Of 2020

Mandabhai Bijalbhai Chirodiya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 29-10-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989 —
Section 3(i)(r), 3(i)(s), 3(2)(va), 14(A)
Indian Penal Code, 1860 — Section 143, 147, 148, 149, 323, 324, 326
Gujarat Police Act, 1951 — Section 135

Citation : (2020) 10 GUJ CK 0030

Hon'ble Judges : R.P.Dholaria, J

Bench : Single Bench

Advocate : Pratik Y Jasani, Dharmesh Devnani

Final Decision : Allowed

Judgement

R.P.Dholaria, J

[1] Mr.Y.J. Patel, learned advocate states that he has an instructions to appear for the original complainant - private respondent(s). He is permitted to file his Vakaltnama before the Registry and the Registry shall accept the same. He further submits that the he has no objection if the appellants be enlarged on bail and he has already filed settlement purshis duly sworn by the complainant which is confirming the same.

[2] This appeal is filed under Section 439 of the Code of Criminal Procedure read with section 14(A) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act for regular bail in connection with an offence being C.R.No.11208045201617 of 2020 registered with Malaviyanagar Police Station, Rajkot for the offence punishable under Sections 326, 324, 323, 143, 147, 148, 149 of the Indian Penal Code, Sections 3(2)(va), 3(i)(r) & 3(i)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and Section

135 of the G.P. Act.

[3] Learned advocate appearing on behalf of the appellants through video conferencing submits that considering the nature of offence, the appellants may be enlarged on regular bail by imposing suitable conditions.

[4] Learned Additional Public Prosecutor appearing on behalf of the respondent-State through video conferencing has opposed grant of regular bail looking to the nature and gravity of the offence.

[5] Having heard the learned advocates for the parties and taking into consideration settlement pursish filed by the original complainat, the parties have already settled the matter as submitted by the learned advocate for both the parties.

[6] In the peculiar facts and circumstances of the case and considering the nature of allegations made against the appellants in the FIR, without discussing the evidence in detail, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the appellants on regular bail. Hence, the present appeal is allowed and the appellants are ordered to be released on regular bail in connection with an offence being C.R.No.11208045201617 of 2020 registered with Malaviyanagar Police Station, Rajkot on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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;

[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] mark presence before the concerned Police Station on alternate Monday for initial three months and thereafter, on first Monday of every English calendar month, for a further period of three months, between 10:00 a.m. and 2:00 p.m.;

[f] 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;

[7] The Authorities will release the appellants 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 learned 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. At the trial, learned Trial Court shall not be influenced by the observations of preliminary nature, qua the evidence at this

stage, made by this Court while enlarging the appellants on bail.

[8] The present appeal is allowed. The order dated 30.09.2020 passed by the learned Sessions Judge, Rajkot, is hereby quashed and set aside.

[9] Registry to send the copy of the this Order to the concerned Jail Authority through Fax and Email.