

(2023) 11 GUJ CK 0013

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 17037 Of 2023

Mangilal Rugnathram Bisnoi (Dhaka)

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 10-11-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Gujarat Prohibition Act, 1949 — Section 65(a), 65(e), 81, 83, 98(2)

Citation : (2023) 11 GUJ CK 0013

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Maulin G Pandya, Soham Joshi

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regularbailinconnectionwith C.R.No.11204039230303 of 2023 registered with Mahudha Police Station, District Kheda for the offence punishable under Sections 65(a), 65(e), 81, 83 and 98(2) of the Gujarat Prohibition Act.

2. Learned advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions. It is submitted that applicant has been arrested on 05.07.2023 and since then he is in judicial custody. The investigation is completed and after submission of the charge-sheet present application is preferred. Thus, considering the facts of the present case and the role played by the applicant, he may be enlarged on bail.

3. Learned APP Mr. Soham Joshi appearing on behalf of the respondent-State has objected present bail application with vehemence and submitted that the role of

the present applicant accused is clearly found out from the charge-sheet papers and therefore he may not be enlarged on bail.

4. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

5. I have heard the learned advocates appearing on behalf of the respective parties. I have perused the police papers as well as other documents produced by the applicant along with the memo of the application. It is found out from the record that applicant has been arrested on 05.07.2023 and since then he is in judicial custody. The investigation is completed and after submission of the charge-sheet present application is preferred. Thus, considering the overall facts of the present case, I am inclined to consider present bail application.

6. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation, reported in [2012]1 SCC 40 as well as in case of Satender Kumar Antil v. Central Bureau of Investigation & Anr. Reported in (2022)10 SCC 51.

7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant 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 applicant on regular bail.

8. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with C.R.No.11204039230303 of 2023 registered with Mahudha Police Station, District Kheda, on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

[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] mark presence before the concerned Police Station once in an English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present 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 this Court;

9. The authorities will release the applicant only if he is 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.

10. At the trial, the 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 applicant on bail.

11. The present application stands allowed accordingly. Direct service is permitted.