

(2024) 01 GUJ CK 0091

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - Before Chargesheet)
No. 1209 Of 2024

Manishgiri Mangalgar Gunsai

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 19-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Gujarat Prohibition Act, 1949 — Section 65(a)(e), 81, 116B

Citation : (2024) 01 GUJ CK 0091

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Aditya Pancholi, Paresh N Fufal, Salim M Saiyed, Jirga Jhaveri

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

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

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with C.R.No.11205006240004 of 2024 registered with Gadshisha Police Station, District Kachchh West-Bhuj for the offence punishable under Sections 65(a)(e), 116-B and 81 of the Prohibition Act.

3. 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 is arrested on 03.01.2024 and since then he is in judicial custody. It is submitted that investigation is substantially over. It is further submitted that the muddamal liquor recovered is worth Rs.38,000/-. It is submitted that no antecedent is reported against the applicant accused. All the offences are exclusively triable by

the Court of Magistrate. Thus, considering the aforesaid factual aspects, applicant may also be enlarged on bail by imposing suitable terms and conditions.

4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

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

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. It is found out from the record that applicant is arrested on 03.01.2024 and since then he is in judicial custody. The investigation is substantially over. The muddamal liquor recovered is worth Rs.38,000/-. It is submitted that no antecedent is reported against the applicant accused. All the offences are exclusively triable by the Court of Magistrate. Thus, considering the aforesaid factual aspects, I am inclined to consider this application.

7. 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.

8. 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.

9. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with C.R.No.11205006240004 of 2024 registered with Gadshisha Police Station, District Kachchh West-Bhuj, 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 on alternate Monday of every 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;

10. 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.

11. 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.

12. The present application stands allowed accordingly. Rule is made absolute. Direct service is permitted.