

(2024) 01 GUJ CK 0036

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No.
15615 Of 2023

Manubhai Karsanbhai Dabhi (Nirashrit Thakor)

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 04-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 201, 302, 404

Citation : (2024) 01 GUJ CK 0036

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Niyati Juthani, JK Shah

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.11217009220690 of 2022 registered with Harij Police Station, District Patan for the offence punishable under Sections 302, 201, 404, 120B of the Indian Penal Code.

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 17.10.2022 and since then he is in judicial custody. The investigation is already completed and after submission of charge-sheet, present application is filed. It is submitted that similarly situated co-accused has been enlarged on bail by the Coordinate Bench of this Court and therefore considering the principle of law of parity, applicant may be enlarged on bail by imposing suitable terms and conditions.

3. Learned APP Mr. Shah appearing on behalf of the respondent-State has

opposed grant of regular bail looking to the nature and gravity of the offence.

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 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 has been arrested on 17.10.2022 and since then he is in judicial custody. The investigation is already completed and after submission of charge-sheet, present application is filed. Similarly situated co-accused has been enlarged on bail by the Coordinate Bench of this Court and therefore considering the principle of law of parity, I am inclined to enlarge the applicant on bail.

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.11217009220690 of 2022 registered with Harij Police Station, District Patan, 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;

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. Rule is made absolute. Direct service is permitted.