

(2020) 08 GUJ CK 0146
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 11050 Of 2020

Manubhai Naranbhai Bharwad

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 11-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 143, 147, 148, 149, 294(b), 307, 324
Gujarat Police Act, 1951 — Section 135(1)

Citation : (2020) 08 GUJ CK 0146

Hon'ble Judges : Bhargav D. Karia, J

Bench : Single Bench

Advocate : Kishan Prajapati, CM Shah, Jigar Dave

Final Decision : Allowed

Judgement

Bhargav D. Karia, J

1. Heard Mr. Yogesh Lakhani, learned Senior Counsel for Mr. Kishan Prajapati, learned advocate for the applicants, Mr. Jigar Dave, learned

advocate for the original complainant and Ms. C.M. Shah learned APP for the respondent State through video conference.

2. Learned advocate Mr. Jigar Dave seeks permission to appear on behalf of the original complainant. Permission is granted.

3. Rule. Learned Additional Public Prosecutor Ms. C.M. Shah waives service of notice of rule on behalf of respondent- State. Learned advocate Mr.

Jigar Dave waives service of notice of rule on behalf of original complainant.

4. The present application is filed under Section 439 of the Code of Criminal Procedure in connection with an FIR No. 11191024200707 registered

with Ramol Police Station, Ahmedabad City for the offences punishable under

Sections 324, 294(b), 143, 147, 148 and 149 of the Indian Penal Code and Section 135(1) of the Gujarat Police Act and subsequently, Section 307 of the Indian Penal Code, which came to be added by the Investigating Officer.

5. Learned Senior Advocate Mr. Lakhani for the applicants submitted that a false complaint is filed against the applicants as the applicant no.1 was at home at the relevant time and the police has recovered the CCTV footage from the applicants. He further submitted that so far as the applicant no.2 is concerned, no role is attributed to him in the FIR. It was pointed out that there were cross complaints filed on behalf of the applicants as well as the original complainant. It was also submitted that the injured witnesses have already been discharged from the hospital. Mr. Lakhani further invited the attention to the order of the co-ordinate Bench of this Court dated 5.8.2020 passed in Criminal Misc. Application No. 9934/2020 granting regular bail to co-accused Lalabhai Naranbhai Bharwad and submitted that the role of the applicant no.1 who is alleged to have given blow with pipe on the complainant is same as that of Lalabhai and therefore applicant no.1 should be granted bail on the ground of parity. Learned Senior Advocate further submitted that considering the nature of the offence, the applicants may be enlarged on regular bail by imposing suitable conditions.

6. Learned Additional Public Prosecutor Ms. Shah appearing on behalf of the respondent State has opposed grant of regular bail looking to the nature and gravity of the offences.

7. Learned advocate Mr. Jigar Dave appearing for the original complainant submitted that similarly situated accused persons namely, Vinubhai Mohanbhai Bharwad and Sanjaybhai Vaghabhai Bharward have withdrawn their bail applications before this Court on 31.7.2020. He further submitted that the name of the applicant no.1 is stated in the complaint and his role is at par with co-accused Vinubhai Mohanbhai Bharwad, and therefore, bail application qua applicant no.1 should not be considered at this stage before filing of the charge-sheet.

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

9. Having heard the learned advocates for the respective parties and having gone through the orders passed by the coordinate Bench, it appears that

the case of the applicant no.1 is at par with that of the co-accused person namely, Lalabhai Naranbhai Bharwad who is enlarged on bail as the

applicant no.1 along with co-accused Lalabhai were at the residence at the relevant point of time as recorded in the CCTV footage. Further, there

was no role attributed to the applicant no.2 in the complaint. The injured witnesses are discharged from the hospital. There is cross complaint filed.

Therefore, considering the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence

in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicants on regular bail.

10. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of

Investigation, reported in [2012] 1 SCC 40.

11. In the result, the present application is allowed and the applicants are ordered to be released on regular bail in connection with an FIR No.

11191024200707 registered with Ramol Police Station, Ahmedabad City, on executing a personal bond of Rs.10,000/(Rupees Ten Thousands Only)

each with one local 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 injurious to the interest of the prosecution;

[c] surrender his passport, if any, to the lower court within a week;

[d] not leave the State of Gujarat without prior permission of the concerned Trial Court;

[e] not to enter in the area of the Ramol police station for a period of four months;

[f] mark presence before the concerned Police Station on every Monday for initial six months and thereafter, on alternate Monday of every English

calendar month, for a further period of six months, between 10:00 a.m. and 2:00 p.m.;

[g] 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;

12. The Authorities will 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 concerned Trial Court will be free to issue warrant or take appropriate action in the matter. Bail bonds to be executed before the Trial 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 applicants on bail. Rule is made absolute accordingly. Direct service is permitted.

13. Registry is directed to intimate about this order to the concerned authorities through fax, email and/or any other suitable electronic mode.

14. Learned advocate for the applicants are also permitted to intimate about this order to the concerned authorities through fax, email and/or any other suitable electronic mode.