

(2023) 12 GUJ CK 0014
In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 21588 Of 2023

Mohammad Hanif Farukbhai Bokda

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 08-12-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 279

Gujarat Animal Preservation (Amendment) Act, 2011 — Section 5, 6(A), 6(B), 8(1)

Prevention Of Cruelty To Animals Act, 1960 — Section 3, 11(1)(c), 11(1)(d), 11(1)(e)

Motor Vehicles Act, 1988 — Section 177, 184

Citation : (2023) 12 GUJ CK 0014

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Makbul I Mansuri

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 regular bail in connection with the FIR being C.R. No.11204060220150 of 2022 registered with the Thasra Police Station, Kheda of the offence punishable under Sections 279 of the IPC and Sections 5, 6(A), 6(B) and 8(1) of the Gujarat Animal Preservation Act, 2011 (Amendment Act, 2017), Sections 3, 11(1)(c), 11(1)(d) and 11(1)(e) of the Preservation of Cruelty to Animal Act, 1960 and Sections 177 and 184 of the Motor Vehicles Act.

2. Learned advocate appearing for the applicant has submitted that the applicant-accused was arrested on 03.10.2023 and since then he is in jail. Learned advocate for the applicant has also submitted that the investigation has already been completed and charge-sheet has also been filed. Learned advocate for the applicant has submitted that the applicant-accused was not found at the place of

occurrence. Initially, the first information report came to be filed against the unknown persons and, subsequently, during the course of investigation, the name of the applicant-accused has been revealed. It is further submitted that there are total three past antecedents against the applicant-accused, however, those offences are not pertaining to the Animal Cruelty Act. It is pertinent to note that in all these three offences, the applicant-accused has already been released on bail. Under the circumstances, learned advocate for the applicant prays that the applicant may be enlarged on bail on any suitable terms and conditions.

3. The learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. Learned APP has submitted that considering the role attributed to the applicant-accused, this is a fit case wherein discretionary power of this Court is not required to be exercised in favour of the applicant-accused.

4. The 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. This Court has also considered the following aspects;

a) That the investigation has already been completed and charge-sheet has also been filed;

b) That the applicant-accused is in jail since 03.10.2023;

c) That the applicant-accused is having three past antecedents, however, in all those offences, the applicant-accused has been released 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.

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 the FIR being C.R. No.11204060220150 of 2022 registered with the Thasra Police Station, 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 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.

10. 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.

Direct service is permitted.