

(2024) 03 GUJ CK 0026

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 2111 Of 2024

Mohmad Rubel Husen Shafikul Islam

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 07-03-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 465, 466, 468, 471, 474
Foreigners Act, 1946 — Section 14(a), 14(b), 14(c)

Citation : (2024) 03 GUJ CK 0026

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Akshitaba Solanki, LB Dabhi

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 regularbailinconnectionwith C.R.No.11210015230103 of 2023 registered with DCB Police Station, Surat City for the offence punishable under Sections 465, 466, 468, 471, 474 and 114 of the Indian Penal Code and under Sections 14(a), 14(b) and 14(c) of the Foreigners Act.

3. Learned advocate Ms. Solanki 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 12.07.2023 and since then he is in judicial custody. It is further submitted that investigation is already concluded and present application is filed after submission of charge-sheet. Learned advocate Ms. Solanki submits that as

per the FIR, the so-called incident is occurred during the period between 2018 till the date of filing of the FIR and FIR is filed on 11.07.2023. It is submitted that applicant is basically belonging to Bangladesh and came to India and thereafter he has impersonated himself as Indian citizen by creating false and fabricated documents just to show that he is Indian citizen. However, the applicant accused has not got any monetary benefit from the said documents. The entire case of the prosecution hinges upon the documentary evidence and all the documents have been collected by the IO during the course of investigation. Thus, considering the aforesaid factual aspects, applicant may be enlarged on bail.

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. It is submitted that applicant is basically Bangladeshi and he has impersonated himself as an Indian Citizen by forging and fabricating the documents. Thus, considering the gravity of the offence, applicant may not be enlarged on bail.

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 investigation is already over and charge-sheet is also filed. The applicant is in jail since 12.07.2023. The entire case of the prosecution hinges upon the documentary evidence and all the documents have been collected by the IO during the course of investigation. Thus, considering the above stated factual aspects, bail application of the applicant deserves consideration.

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.11210015230103 of 2023 registered with DCB Police Station, Surat City, on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand only) with two local sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each 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.