

(2023) 05 GUJ CK 0053

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 8323 Of 2023

Nikulbhai @ Pappu Khimjibhai Katariya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 12-05-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 120B, 380, 454

Citation : (2023) 05 GUJ CK 0053

Hon'ble Judges : M. R. Mengdey, J

Bench : Single Bench

Advocate : Malaykumar S Patel, Utkarsh Sharma

Final Decision : Allowed

Judgement

M. R. Mengdey, J

[1] Rule. Learned APP waives service of notice of rule on behalf of respondent – State.

[2] The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR being C.R.No.I- 11198053220237 of 2023 registered with Talaja Police Station, District: Bhavnagar for the offences under Sections 454, 380, 120B, 34 of the Indian Penal Code.

[3] Learned advocate for the applicant submits that considering the nature of allegations, role attributed to the applicant, the applicant may be enlarged on regular bail by imposing suitable conditions. He has further submitted that the investigation is over and charge sheet is also filed and that the co-accused of the applicant is enlarged on bail.

[4] Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the

offence.

[5] I have heard learned advocates appearing on behalf of the respective parties and perused the record.

[5.1] This Court has also taken into consideration the law laid down by the Apex Court in the case of Sanjay Chandra versus Central Bureau Investigation, reported in (2012) 1 SCC 40.

[6] In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR and that applicant is in jail since 21.12.2022 and now the investigation is over and charge sheet is already filed and that co-accused is also enlarged on bail, I am of the opinion that discretion is required to be exercised in favour of the applicants and enlarge the applicant on regular bail.

[7] In the result, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an offence being C.R.No.I-11198053220237 of 2023 registered with Talaja Police Station, District: Bhavnagar on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only), with one solvent surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that the applicant 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 India without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station

once between 1st and 5th day of every English calendar month for a period of six months.;

[f] furnish latest and permanent 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;

[8] Bail bond to be executed before the Trial Court having jurisdiction to try the case. It would be open for the Trial Court concerned to give time to furnish the solvency certificate if prayed for.

[9] If breach of any of the above conditions is committed, the Trial Court concerned will be free to issue warrant or take appropriate action according to law. The Authorities will release the applicant forthwith only if not required in connection with any other offence for the time being.

[10] At the trial, the concerned trial Court shall not be influenced by the prima facie observations made by this Court in the present order. Rule is made absolute

to the aforesaid extent. Direct service is permitted.