

(2024) 05 GUJ CK 0031

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No.
9049 Of 2024

Nileshbhai Chhaganbhai Maiya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 13-05-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 120B

Prevention Of Corruption Act, 1988 — Section 7(1), 12, 13(1), 13(2)

Citation : (2024) 05 GUJ CK 0031

Hon'ble Judges : Nisha M. Thakore, J

Bench : Single Bench

Advocate : Armankhan A Ghasura, Utkarsh Sharma

Final Decision : Allowed

Judgement

Nisha M. Thakore, J

1. Rule. Mr. Sharma, learned APP waives service of notice of rule for respondent – State of Gujarat.

2. 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.1 of 2024 registered with the Gir Somnath ACB Police Station for the offence punishable under Sections 7(1), 12, 13(1) and 13(2) of the Prevention of Corruption Act, 1988 read with Section 120B and 34 of the Indian Penal Code.

3. Learned advocate for the applicant submitted that the so-called incident has taken place on 30th December, 2023 for which, the FIR has been lodged on 5th January, 2024 and the applicant has been arrested in connection with the same on 27 th February, 2024 and since then, he is in judicial custody.

Learned advocate submitted that now the investigation is completed and present application is filed after submission of the charge-sheet. It is, therefore, urged

that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Mr. Sharma, learned APP for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is submitted that the role of the present applicant is clearly spelt-out from the papers of the charge-sheet and, hence, the present application may not be entertained.

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.

7. I have considered the role attributed to the present applicant at the time of commission of crime. The applicant was posted as Assistant Sub Inspector at Mandvi Check Post at the time of incident and it is alleged that the present applicant in collusion with co-accused PSI M K Goswami as well as Nilesh Tadvī were involved in corrupt practice by accepting bribe money passing of vehicle at check post. From the record, it appears that investigation is over and the present application is preferred after submission of the charge-sheet. The applicant is in jail since 27th February, 2024. The co-accused are enlarged on regular bail by Coordinate Bench and the role of the present applicant is almost similar to his superior PSI, Goswami. Therefore considering the above factual aspects, the present application deserves to be allowed.

8. 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.

9. 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.

10. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.1 of 2024 registered with the Gir Somnath ACB Police Station on executing a personal bond of Rs.10,000/- (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 directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer or tamper with the evidence;

(b) maintain law and order and not to indulge in any criminal activities;

(c) furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change the residence without prior permission of the trial Court;

(d) provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the trial Court;

(e) file an affidavit stating his immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any;

(f) not leave India without prior permission of the Trial Court;

(g) surrender passport, if any, to the Trial Court within a week. If the Applicant does not possess passport, shall file an Affidavit to that effect.

11. 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 concerned 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.

12. Needless to clarify that the trial Court shall not be influenced by the present observations of this Court at this stage of grant of bail, which are even otherwise of preliminary nature as against the evidence which may emerged on record during the course of trial.

13. Rule is made absolute to the aforesaid extent. Direct service is permitted.