

(2019) 08 GUJ CK 0006

In the Gujarat High Court

Case No : R/Special Civil Application No. 16362 Of 2019

Nimeshbhai Arjunbhai Gamit

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 28-08-2019

Acts Referred:

Code Of Criminal Procedure 1973 — Section 439

Gujarat Prohibition Act, 1949 — Section 65(a)(e), 81, 98(2), 116B

Indian Penal Code, 1860 — Section 465, 471, 473

Citation : (2019) 08 GUJ CK 0006

Hon'ble Judges : A.J. Desai, J

Bench : Single Bench

Advocate : H.B. Champavat, Mitesh Amin, Nisha Thakore

Final Decision : Allowed

Judgement

A.J. Desai, J

1. Rule. Learned APP Ms. Nisha Thakore waives service of Rule on behalf of the respondent-State.

2. The present application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with an offence being III-C.R. No. 138 of 2019 registered with Vadnagar Police Station, Mehsana for the offences punishable under Sections 65(a)(e), 81, 98(2), 116-B, of the Gujarat Prohibition Act and under Sections 465, 471, 473 of the Indian Penal Code.

3. Learned advocate appearing on behalf of the applicant submits that considering the nature of offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

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

6. I have heard learned advocates appearing on behalf of the respective parties and considered the allegations levelled against the applicant and the role played by the applicant. I have considered the fact that investigation is over and charge-sheet is filed.

7. In the facts and circumstances of the case and considering the nature of 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. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an offence being III-C.R. No. 138 of 2019 registered with Vadnagar Police Station, Mehsana, on executing a personal bond of Rs. 25,000/- (Rupees Twenty Five thousands only) with one local surety of the like amount to the satisfaction of the learned 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] furnish latest address of his 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;

[f] shall mark his presence with the concerned Police Station on every Monday for a period of six months and thereafter, on any day of first week of every English Calendar Month till trial is over;

8. 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 learned 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. 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 applicant on bail. Rule is made absolute to the aforesaid extent.

9. Direct service is permitted.