

(2022) 01 GUJ CK 0092

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 22199 Of 2021

Paresh @ Munno Bhagwan Barot

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 24-01-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 120(B), 147, 148, 149, 302, 307, 326

Gujarat Police Act, 1951 — Section 135

Citation : (2022) 01 GUJ CK 0092

Hon'ble Judges : A.Y. Kogje, J

Bench : Single Bench

Advocate : Virat G Papat, Naindeep B Joshi, Maithili Mehta

Final Decision : Allowed

Judgement

A.Y. Kogje, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being I-CR

No.69 of 2017 registered with Dhrangadhra Police Station, Surendranagar for offence under Sections 302, 307, 326, 120(B), 147, 148 and 149 of the

Indian Penal Code and Section 135 of the Gujarat Police Act.

2. Learned Advocate 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.

3. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

4. Learned advocate Ms. Naindeep Joshi for the original complainant draws attention of this Court to the affidavit produced at Page No.105 of the

applicationi, which indicate that there is no ill-will amongst both the communities and both the communities have ensured peace to prevail in the area.

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. Following aspects are considered:-

I. The FIR is registered on 08.07.2017 for the offence which is alleged to have taken place on 07.07.2017.

II. The applicant is in jail since 14.10.2021.

III. The investigation is concluded and chargesheet is filed.

IV. The application is moved on the basis of settlement which has now arrived at.

V. Considering the fact that by taking cognizance of prevailing situation, this Court has released several accused persons on regular bail.

VI. The Court has taken into consideration the relevant aspect that in the local area these two communities have time and again indulged into the

commission of such serious offence. However, now with the efforts of the senior members of these communities, the communities have buried their

hedge and for all time to come settled down to see to it that no further offence/ crime takes place within these two communities.

VII. At this stage, learned advocate for the applicant as well as learned advocate for the complainant state that peace has prevailed in the area and no

communities are indulged in any crime/offence.

Under the instructions, they state that both the parties are ready and willing to give undertaking before this Court that they shall abide their respective

terms of settlement of affidavit and in case of breach of any of the terms of settlement by the applicant, bail order may be treated to be canceled.

VIII. Considering the aforesaid and particularity the time that trial may consume.

IX. Learned APP under instructions of IO is unable to bring on record any special circumstances against the applicant.

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. The applicant is ordered to be released on regular bail in connection with FIR being I-CR No.69 of 2017

registered with Dharangadhra Police Station, Surendranagar, on executing a personal bond of Rs.10,000/- (Rupees Ten 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 & shall not obstruct or hamper the police investigation and shall not to play mischief

with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not leave the State of Gujarat without prior permission of the Trial Court concerned;

(e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) furnish the present 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 Trial Court;

(g) The applicant shall file an undertaking before this Court that he shall abide respective terms of settlement of affidavit and in case of breach of any

of the terms of settlement by the applicant, bail order may be treated to be canceled from the date of actual release of the applicant.

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. Rule is made absolute to the aforesaid extent.

Direct service is permitted.