

(2022) 08 GUJ CK 0114

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 7945 Of 2021

Parikshitsinh Prabhatsinh Jadeja

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 24-08-2022

Acts Referred:

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

Citation : (2022) 08 GUJ CK 0114

Hon'ble Judges : Nikhil S. Kariel, J

Bench : Single Bench

Advocate : Ashish M Dagli, Ashish M Dagli

Final Decision : Allowed

Judgement

Nikhil S. Kariel, J

1. Heard learned Advocate Ashish M. Dagli for the applicant and learned Additional Public Prosecutor Mr. L.B. Dabhi on behalf of the respondent-State.

2. The applicant herein, who is working as Unarmed ASI, had been arraigned as an accused in connection with FIR being C.R. No. 02 of 2021 registered with ACB Police Station, Gandhidham, District Kutch-West, on 08.03.2021 for offences punishable under Sections 13(1)(b) and 13(2) of the Prevention of Corruption Act, apprehending his arrest, has preferred this application for being released on anticipatory bail.

3. Learned Advocate Mr. Dagli for the applicant would submit that the nature of allegations are such for which custodial interrogation of the applicant at this stage is not necessary. Besides, the applicant is available during the course of investigation and will not flee from justice. In view of the above, the applicant may be granted anticipatory bail.

Learned Advocate Mr. Dagli for the applicant on instructions states that the applicant is ready and willing to abide by all the conditions including imposition of

conditions with regard to powers of Investigating Agency to file an application before the competent Court for his remand. Learned Advocate would further submit that upon filing of such application by the Investigating Agency, the right of applicant-accused to oppose such application on merits may be kept open.

4. This application has been vehemently opposed by learned Additional Public Prosecutor Mr. Dabhi appearing on behalf of the respondent-State, who would submit that looking to the nature and gravity of the offence the applicant may not be released on anticipatory bail by this Court.

5. Having heard the learned Advocates for the parties and having perused the investigating papers as well as documents on record, the following relevant aspects are considered by this Court:

[1] It appears that vide an order dated 18.06.2021, the present applicant, while he had been directed to cooperate with the investigation, had been protected from being arrested by the Investigating Officer.

[2] Today, learned APP Mr. Dabhi submits a report by the Police Inspector, ACB Police Station, Kutch (West) at Bhuj, and whereas it is inter alia mentioned in the said report that after verification, the alleged disproportionate part of the income of the present applicant as compared to the earnings of the applicant would come to only 3.43%.

Having regard to the same, since it appears that the applicant having co-operated with the investigation and having provided material, which had been considered by the Investigating Officer and since it appears that the income which is allegedly disproportionate is negligible, in the considered opinion of this Court, discretion is required to be exercised in favour of the applicant.

6. In this view of the matter and considering the law laid down by the Hon'ble Apex Court in the case of *Siddharam Satlingappa Mhetre v. State of Maharashtra* and Ors. reported in (2011)1 SCC 694, this Court is inclined to consider this application.

7. In the result, the present application is allowed by directing that in the event of applicant herein being arrested pursuant to the FIR being C.R. No. 2 of 2021 registered with ACB Police Station, Gandhidham, District Kutch-West, the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety of like amount, on the following conditions:

(a) shall cooperate with the investigation and make himself available for interrogation whenever required;

(b) shall remain present at the concerned Police Station on 29.08.2022 between 11:00 a.m. and 2:00 p.m.;

(c) shall 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 to any police officer;

(d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the Police;

(e) shall at the time of execution of bond, furnish the address to the Investigating Officer and the Court concerned and shall not change his residence till the final disposal of the case or till further orders;

(f) shall not leave India without the permission of the Court and, if having passports shall surrender the same before the Trial Court within a week.

8. Despite this order, it would be open for the Investigating Agency to file an application for police remand of the applicant to the competent Magistrate, if he thinks it just and proper and learned Magistrate would decide it on merits. The applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if ultimately granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order.

9. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the applicant on bail. Rule is made absolute to the aforesaid extent.

Direct service is permitted.