

(2023) 04 GUJ CK 0068
In the Gujarat High Court
Case No : R/Criminal Appeal No. 277 Of 2023

Prakashbhai Bhagvanjibhai Kansagara	APPELLANT
Vs	
State Of Gujarat	RESPONDENT

Date of Decision : 18-04-2023

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(v), 14A(2)
Indian Penal Code, 1860 — Section 114, 307, 323, 337, 504

Citation : (2023) 04 GUJ CK 0068

Hon'ble Judges : Nirzar S. Desai, J

Bench : Single Bench

Advocate : S D Moghariya, LB Dabhi

Final Decision : Allowed

Judgement

Nirzar S. Desai, J

1. Heard learned advocate Mr.Moghariya for the applicants and learned Additional Public Prosecutor Mr.Dabhi for the respondent – State.

2. By way of the present appeal under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, the applicants have prayed to release them on regular bail in connection with the FIR being C.R.11189005221791 of 2022 registered with Morbi Taluka Police Station, Dist.Morbi for offences punishable under Sections 307, 323, 337, 504 and 114 of Indian Penal Code, under Section 135 of the Gujarat Police Act and under Sections 3 (1) (r), 3(1)(s) and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 2015.

3. Learned advocate for the applicants submitted that, the applicants are not involved in commission of offence as alleged in the FIR and therefore, looking to the role of the applicants and nature of the allegations, the applicants are required to be enlarged on regular bail by imposing suitable terms and conditions.

4. On the other hand, learned APP appearing for the respondent – State vehemently submits that, the offences which have been charged are serious in nature affecting the society at large and looking to the facts as well as the allegations made against the applicants, no discretion would be required to be exercised.

5. In the facts and circumstances of the case and considering the nature of allegations, this Court is of the opinion that, discretion is required to be exercised to enlarge the applicants on regular bail. This Court has considered the following facts while exercising discretion in favour of the applicants :-

- (i) the applicants are in jail since 11.11.2022;
- (ii) the investigation is over and the charge-sheet is filed;
- (iii) no past antecedent is attributed to any of the applicant;
- (iv) though both the applicants have given knife blows, those were given on non-vital part of the body.

6. In view of the aforesaid facts, without discussing the evidence in detail, this Court, prima facie, is of the opinion that, this is a fit case to exercise the discretion and enlarge the applicants on regular bail. Hence, present application is allowed and the applicants are ordered to be released on regular bail in connection with the FIR being C.R.11189005221791 of 2022 registered with Morbi Taluka Police Station, Dist.Morbi on executing personal bond of Rs.10,000/- (Rupees Ten thousand only) each with one surety each of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that they 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 India without prior permission of the Sessions Judge concerned;
- [e] furnish latest 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 the trial Court;
- [f] mark presence before the concerned police station in the first week of every month till the trial is over;
- [g] shall not enter into Dist:Morbi except for marking presence and attending the Court proceedings without prior permission of the concerned jail authority.

7. The Authorities will release the applicants only if the applicants are 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 applicants on bail.

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