

**(2024) 04 GUJ CK 0022**

**In the Gujarat High Court**

**Case No :** R/Criminal Misc.Application (For Regular Bail - Before Chargesheet)  
No. 6182 Of 2024

Prakashkumar Manjibhai Mali & Anr

APPELLANT

Vs

State Of Gujarat

RESPONDENT

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**Date of Decision :** 05-04-2024

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 439

**Citation :** (2024) 04 GUJ CK 0022

**Hon'ble Judges :** M. R. Mengdey, J

**Bench :** Single Bench

**Advocate :** Nirav K Padhiyar, Maulik M Soni, K.M.Antani

**Final Decision :** Allowed

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## **Judgement**

M. R. Mengdey, J

1. Rule. Learned APP waives service of Rule on behalf of the Respondent State.
2. The Applicants have filed this Application under Section 439 of the Code of Criminal Procedure for enlarging the Applicants on Regular Bail in connection with FIR being C.R. No. 11195016240019 of 2024 registered with Deesa North Police Station. Banaskantha.
3. Heard learned Advocate for the Applicants and learned APP for the Respondent – State.
4. Learned Advocate for the Applicants submitted that the Applicants have good reputation in the society and no useful purpose would be served by keeping the applicants in jail for indefinite period. It is further contended that the applicants are ready and willing to abide by all the conditions that may be imposed by this Court if released on bail.
5. Per contra, learned APP has vehemently opposed the present application for grant of regular bail contending that the applicants herein had assaulted the

victim and his family members on a trivial issue of noise from the speaker. The applicants have assaulted the victim with deadly weapons. He therefore submitted that looking to the nature and gravity of offence, this Court may not exercise the discretion in favour of the applicants and the application may be dismissed.

5.1 Learned advocate Mr.Maulik Soni for the original complainant submitted that the applicants were armed with deadly weapons in their hands and had assaulted with those weapons to the victim and the family members. He therefore submitted to dismiss the present application.

6. Heard learned advocates for the respective parties and perused the record. The applicants are alleged to have assaulted the victim and his family members with a Dharia and an iron rod. The injuries sustained by the victim appears to be simple in nature. Having regard to the seriousness of the offence and the allegations levelled against the present applicants, the application deserves consideration.

7. This court has considered the following aspects:

(a) As per catena of decisions of Hon'ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. prima facie case, availability of Applicants accused at the time of trial and tampering and hampering with the witnesses by the accused.

(b) That the learned Advocate for the Applicants submitted that the Applicant Accused is not likely to flee away.

(c) That the Applicants are in custody since 13.3.2024.

(d) The law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. C.B.I. Reported in (2012) 1 SCC 40.

8. Having heard the learned Advocates for the parties and perusing the record produced in this case as well as taking into consideration the facts of the case, nature of allegations, gravity of accusation, availability of the Applicants Accused at the time of Trial etc. and the role attributed to the present Applicants accused, the present Application deserves to be allowed and accordingly stands allowed. This Court has also gone through the FIR and police papers and also the earlier order passed by the learned Sessions Court where the learned Sessions Judge has disallowed the bail Application at initial stage. The Applicants Accused are ordered to be released on bail in connection with the aforesaid FIR on executing a personal bond of Rs.10,000/- (each) with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions that they 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 Applicants does not possess passport, shall file an Affidavit to that effect.

(h) not enter area of Deesa city police station till the conclusion of trial except for attending the trial court.

9. Bail bond to be executed before the Trial Court having jurisdiction to try the case. It would be open for the Trial Court concerned to give time to furnish the solvency certificate if prayed for.

10. If breach of any of the above conditions is committed, the Trial Court concerned will be free to issue warrant or take appropriate action according to law. The Authorities will release the Applicants forthwith only if the Applicants are not required in connection with any other offence for the time being.

11. At the trial, the concerned trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

12. Rule is made absolute. Direct service permitted.