

(2022) 05 GUJ CK 0056

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 7114 Of 2022

Pramodbhai Shankarbhai Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 13-05-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 120B, 420, 465, 467, 468, 471

Citation : (2022) 05 GUJ CK 0056

Hon'ble Judges : Niral R. Mehta, J

Bench : Single Bench

Advocate : Darshit R Brahmbhatt, Pranav Trivedi

Final Decision : Allowed

Judgement

Niral R. Mehta, J

1. Rule, returnable forthwith. Learned Additional Public Prosecutor Mr.Pranav Trivedi waives service of notice of Rule on behalf of the respondent – State.

2. The present is a successive application filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being C.R.No.11215029210401 of 2021 registered with Tarapur Police Station for offence under Sections 420, 465, 467, 468, 471 and 120B of the Indian Penal Code.

3. 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.

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. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

7. This Court has considered following aspects,

(a) The applicant is in jail since 15th December, 2021;

(b) Investigation is over and chargesheet has been filed;

(c) The entire offence is based on documentary evidence which is by now collected by the investigating agency and thereby no further custodial interrogation is required of the applicant who is 60 years old;

(d) Considering the F.I.R. and the chargesheet papers, it appears that cheque which was deposited in the bank account of the Trust in which the present applicant is President is forged, however it also appears that the amount in question which was credited in the bank account of the Trust has already been reversed on the same day;

(e) Keeping in mind the offences alleged and the punishment prescribed, the offences are predominantly triable by the Magistrate Court and the pendency of cases at the trial courts, trial may take its own course and thereby no fruitful purpose would be achieved by keeping the applicant behind the bars during the pendency of the trial.

In the facts and circumstances of the present case and considering the role attributed to the applicant and the allegations levelled against him, the case of the applicant deserve consideration and, therefore, I am inclined to consider the case of the applicant.

8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of Investigation, reported in [2012] 1 SCC 40.

9. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being C.R.No.11215029210401 of 2021 registered with Tarapur Police Station 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;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave the India without prior permission of the concerned trial court;

[e] mark presence before the concerned Police Station between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present 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 concerned trial court.

10. The authorities shall adhere to its own Circular relating to COVID-19 and, thereafter, 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 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 prima facie observations made by this Court in the present order.

12. Rule is made absolute to the aforesaid extent. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.