

(2020) 08 GUJ CK 0054

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 10620 Of 2020

Pravinbhai Jaganbhai Chauhan

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 120(B), 347, 395, 397, 450
Arms Act, 1959 — Section 25(1)(a)
Gujarat Police Act, 1951 — Section 135

Citation : (2020) 08 GUJ CK 0054

Hon'ble Judges : Dr A. P. Thaker, J

Bench : Single Bench

Advocate : Hardik A Dave, Maithili Mehta

Final Decision : Allowed

Judgement

Dr. A. P. Thaker, J

[1] Heard Mr.Dave, learned advocate for the applicant and Ms.Mehta, learned Additional Public Prosecutor for the respondent â?" State through

Video Conferencing.

[2] RULE. Learned Additional Public Prosecutor waives service of notice of rule for respondent â?" State.

[3] With the consent of learned advocates for both the sides, rule is fixed forthwith.

[4] The present application is filed under Section 439 of the Code of Criminal Procedure in connection with an FIR being C.R.No.I â?" 25/2019

registered with Hansot Police Station, District: Bharuch for the offences punishable under Sections 395, 397, 347, 450, 34, 120(B) of the Indian Penal

Code, Section 25(1)(a) of the Arms Act and Section 135 of the Gujarat Police Act.

[5] Mr.Dave, learned advocate appearing for the applicant has submitted that there is no discovery or recovery from the accused. He has submitted

that he has not named in the FIR and the co-accused, who has played similar role, has been enlarged on bail by this Court (Coram: Hon'ble Mr.Justice

V. M. Pancholi) vide order dated 02.03.2020 passed in Criminal Misc. Application No.4466 of 2020. He has further submitted that the charge-sheet

has already been filed. He has further submitted that considering the nature of evidence, role attributed to the applicant and punishment prescribed,

this application for bail may kindly be considered and the applicant may be released on bail on stringent conditions.

[6] Ms.Mehta, learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail on the grounds that

considering the nature and gravity of the offence. She has submitted that the present application may be rejected.

[7] Having perused the materials placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role

attributed to the accused and the fact that the co-accused has been enlarged on bail by this Court (Coram: Hon'ble Mr.Justice V. M. Pancholi) vide

order dated 02.03.2020 passed in Criminal Misc. Application No.4466 of 2020, without discussing the evidence in detail, at this stage, this Court is

inclined to grant regular bail to the applicant.

[8] This Court has considered following aspects;

(i) That other co-accused are enlarged on bail;

(ii) The fact that the accused is in jail since 28.11.2019;

(iii) The investigation is over and the charge-sheet is led;

[9] This Court has also taken into consideration the law laid down by the Apex Court in the case of Sanjay Chandra Vs. Central Bureau of

Investigation, (2012) 1 SCC 40;

[10] In the result, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an FIR being

C.R.No.I â?" 25/2019 registered with Hansot Police Station, District: Bharuch, on executing a personal bond of Rs.10,000/- (Rupees Ten Thousands

Only) with one local surety of the like amount to the satisfaction of the learned

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 his passport, if any, to the lower court within a week;

[d] not leave the State of Gujarat without prior permission of the concerned Trial Court;

[e] mark presence before the concerned Police Station on alternate every Monday for initial six months and thereafter, on alternate Monday of every

English calendar month, for a period of six months, between 10:00 a.m. and 2:00 p.m.;

[f] 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;

[11] 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 concerned Trial Court will be free to issue warrant or take appropriate action in the matter. Bail bond to be

executed before the Trial 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 applicant on bail. Rule is made absolute accordingly.

[12] Registry is directed to intimate about this order to the concerned authorities through fax, email and/or any other suitable electronic mode. Learned

advocate for the applicant is also permitted to intimate about this order to the concerned authorities through fax, email and/or any other suitable

electronic mode.