

(2019) 12 GUJ CK 0099

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 21569 Of 2019

Pritam Gopaldas Kewalramani

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 26-12-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114, 120B, 406, 420

Citation : (2019) 12 GUJ CK 0099

Hon'ble Judges : A.Y. Kogje, J

Bench : Single Bench

Advocate : Yogesh S. Lakhani, J, Rahul R Dholakia, Leela Malu, Ajay L Pandav, J. K. Shah

Final Decision : Allowed

Judgement

A.Y. Kogje, J

1. This application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR

registered as C.R. No.I-17 of 2018 with Kandla Marine Police Station, Gandhidham-Kachchh, for the offence punishable under Sections 406, 420,

120(B) and 114 of the Indian Penal Code.

2. Learned advocate appearing on behalf of the applicant submits that considering the nature of offence, the applicant may be enlarged on regular bail

by imposing suitable conditions.

3. On the other hand, the learned Additional Public Prosecutor appearing for the respondent-State has opposed grant of regular bail looking to the

nature and gravity of the offence.

4. Learned Advocate for the complainant by relying upon the Affidavit of original complainant dated 26th December, 2019 contending that the transfer of management is eye wash to escape the liabilities. It is submitted that there is internal understanding between old management and the new management and new management is also equally party to the offence. Transfer is only for the namesake, but the applicant and his family members will continue to enjoy the assets of the Jaisu Shipping Company. It is submitted that the complainant and other witnesses are small time creditors and therefore, there completely disregarded by Investigating Authorities, Jaisu Shipping Company, new management and old management. It is indicated that the complicity of the new management is also seen as available assets like running sea vessels are being disposed of at migre amount without inviting bids. It is pointed out that assets were disposed of under auction held by Bombay High Court. Better prices were received, but thereafter, by some internal mischief, the applicant and other accused have disposed of such assets to only one party with whom also management of the company is closely connected. She draws attention of this Court to the prima facie findings given by this Court in order dated 07-08-2018 passed in Special Criminal Application No.5920 of 2018, where the Court is seriously doubted the transaction of transferring huge assets of Jaisu Shipping Company on Rs.100/- Stamp papers.

5. Learned Advocates appearing on behalf of the respective parties do not press for a further reasoned order.

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered :-

I) The F.I.R. is registered on 06-06-2018 for the offence which is alleged to have taken place between 07-11-1996 to 06-06-2018;

II) The applicant is in custody since 17-10-2019;

III) Investigation qua the applicant is over;

IV) Learned Advocate for the applicant submitted that the applicant is aged 62 years. It is submitted that offence pertains to pending payment of Jaisu

Shipping Company of which the applicant was one of the Director, but in the year 2013, the Company was handed over to new Management by

transferring shares of the applicant and other family members to the incoming management. It is submitted that 2013 onwards, all the liabilities were

taken over by new Management and in fact creditors of Jaisu Shipping Company are also been paid periodically their dues by the new management.

The applicant is involved in the offence as armed twisting method to agitate Civil dispute.

V) It is submitted that without prejudice, the applicant is ready and willing to deposit an amount of Rs.50,00,000/-(Rupees Fifty Lakhs only) before the trial Court and file an undertaking to that effect before this Court;

VI) Learned Additional Public Prosecutor under the instructions of the Investigating Officer is unable to bring on record any special circumstances against the applicant.

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

7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the First Information Report, without discussing the evidence in detail, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with C.R. No.I-17 of 2018 with

Kandla Marine Police Station, Gandhidham- Kachchh, 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 & shall not obstruct or hamper the police investigation and shall not to play mischief

with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not leave the State of Gujarat without prior permission of the Trial Court concerned;

(e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) shall deposit without prejudice an amount of Rs.50,00,000/- (Rupees Fifty

Lakhs only) within the period of three months from the date of his release before the trial Court and file an undertaking to that effect within the period of one week of his release before this Court;

(g) furnish the present address of his 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 Trial Court;

9. 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 Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.

10. 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 observations of preliminary nature qua the evidence at this stage made by this Court while

enlarging the applicant on bail.

12. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct Service is permitted.