

(2021) 02 GUJ CK 0075

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 10663 Of 2020

Rajeshbhai Raghavbhai Ahir

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 15-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114, 120(B), 406, 409, 420

Gujarat Protection Of Interest Of Depositors (In Financial Establishments) Act, 2003 — Section 3

Prize Chits And Money Circulation Schemes (Banning) Act, 1978 — Section 4, 5, 6

Citation : (2021) 02 GUJ CK 0075

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

Bench : Single Bench

Advocate : Kartikkumar K Joshi, Maithili Mehta

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.IA373 of 2019 with PUNA POLICE STATION, DISTRICTASURAT, for the offence punishable under Sections406, 409,

420, 120(B), 114 of the Indian Penal Code, under Section3 of G.P.I.D. Act and under Section4, 5, 6 of the Prize Chit Money Circulation Act.

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 respondentState has opposed grant of regular bail looking to the

nature and gravity of the offence.

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

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

I) The F.I.R. is registered on 22Â?09Â?2019 for the offence which is alleged to have taken place between July, 2014 to 22Â?09Â?2019;

II) The applicant is in custody since 22Â?09Â?2019;

III) Investigation is concluded and chargeÂ?sheet is filed;

IV) Learned Advocate for the applicant submitted that considering the nature of offence and the maximum sentence that can be imposed;

V) Learned Advocate for the applicant draws attention of this Court to one Affidavit of one of the witness who acted as an Agent to the fact that the

Investors who had purchased the bonds from such Agent, has redeposited the bonds with the company and from the company, he has already

received the money towards the such bonds.

VI) Learned Advocate for the applicant submitted that coÂ?accused have been enlarged on regular bail. Hence, applying principle of parity.

VII) Learned Advocate for the applicant under instruction submitted that without prejudice the applicant is ready and willing to deposit the amount of

Rs.10,00,000/Â? within stipulated period;

VIII) 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.

6. 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.

7. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with C.R. No.IÂ?373 of 2019 with

PUNA POLICE STATION, DISTRICTÂSURAT, 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) shall deposit an amount of Rs.10,00,000/Â (Rupees Ten Lakhs only) within the period of six months from the date of his release before the trial

Court and file an undertaking to that effect within the period of two weeks from the date of his release before this Court;

(f) 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.;

(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;

8. 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.

9. 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.

10. 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.

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