

(2021) 11 GUJ CK 0007
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 17113 Of 2021

Ramanbhai Gulabbhai Dho. Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 09-11-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114

Gujarat Land Grabbing (Prohibition) Act, 2020 — Section 3, 4(1), 5(c)

Citation : (2021) 11 GUJ CK 0007

Hon'ble Judges : Hemant M. Prachchhak, J

Bench : Single Bench

Advocate : Anmol Surolia, Dipesh D Soni, Jafar A Shaikh, Jirga Jhaveri

Final Decision : Allowed

Judgement

Hemant M. Prachchhak, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being I-CR No.11822009211424 of 2021 registered with Chikhli Police Station, Navsari for offence under Section 114 of the Indian Penal Code and Section 3, 5 (c) and 4(1) of the Gujarat Land Grabbing (Prohibition) Act, 2020 .

2. Mr. Surolia, learned advocate appearing on behalf of the applicants submits that considering the nature of the offence, the applicants may be enlarged on regular bail by imposing suitable conditions.

3. Ms. Jhaveri, learned APP appearing on behalf of the respondent-State 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 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:-

I. The FIR is registered on 20th August, 2021 for the offence which is alleged to have taken place on 10th August, 2006.

II. The applicants are in jail since 26th August, 2021.

III. The investigation is concluded and charge- sheet is filed.

IV. Learned APP under instructions of IO is unable to bring on record any special circumstances against the applicant.

6. This Court has also 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 applicants in the FIR, 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 applicants on regular bail.

8. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with FIR being I-CR No.11822009211424 of 2021 registered with Chikhli Police Station, Navsari, on executing a personal bond of Rs.25,000/-(Rupees Twenty Five Thousand only) each with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that they 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 Chikhli Police Station twice in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) 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;

(g) not enter the territorial jurisdiction of Village Manekpur, Taluka Chikhli for the period of six months.

9. The authorities will release the applicants only if they are 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 applicants on bail.

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.