

(2024) 01 GUJ CK 0059

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Successive Regular Bail - After Chargesheet) No. 303 Of 2024

Ramju Sidhik Hajam

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 10-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8(C), 20(b)(2), 29, 37

Citation : (2024) 01 GUJ CK 0059

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : A A Zabuawala, K.M. Antani

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. Rule. Learned APP waives service of notice of Rule on behalf of respondent-State.
2. The present successive bail application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with C.R. No. 11205035230515 of 2023 registered with the Nakhtrana Police Station, District Kachchh for the offence punishable under Sections 8(C), 20(b)(2) and 29 of the NDPS Act.
3. Learned advocate Mr. Zabuawala appearing on behalf of the applicant has submitted that so called incident has occurred on 03.06.2023 and on the same day the FIR was registered, since then the applicant is in judicial custody. It is also submitted that the investigation is already completed and the present application is filed after submission of the charge-sheet. Learned advocate for the applicant further submitted that it is the case of the prosecution that the

Investigating Officer has received some secret information and on the strength of same, raid was conducted and during the course of raid, the applicant was found along with contraband articles. The contraband articles recovered from the applicant is intermediate quantity i.e. bigger than smaller quantity and lessor than commercial quantity and therefore rigors of section 37 of NDPS Act would not come into play. It is further submitted that co-accused has already been enlarged on bail. It is also submitted that there is no past antecedent against the present applicant. Considering the role attributed by the present applicant at the time of commission of offence, the applicant may be enlarged on regular bail by imposing suitable terms and conditions.

4. Learned APP appearing on behalf of the respondent-State has opposed the present bail application. It is submitted that the role of the present applicant is clearly spelt out from the body of the compilation of the charge sheet papers. Considering the role attributed by the present applicant, the present application may not be considered.

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

6. I have perused the police papers as well as documents produced by the applicant along with the memo of the application. It is found out from the record that the applicant is jail since 03.06.2023. The investigation is already completed and the present application is filed after submission of the charge-sheet. The contraband articles recovered from the applicant is intermediate quantity i.e. bigger than smaller quantity and lessor than commercial quantity. Considering the role attributed by the present applicant at the time of commission offence, I am inclined to exercise the discretion in favour of the applicant.

7. 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 as well as in case of Satender Kumar Antil v. Central Bureau of Investigation & Anr. reported in (2022)10 SCC 51.

8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant 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 applicant on regular bail.

9. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with C.R. No. 11205035230515 of 2023 registered with the Nakhtrana Police Station, District Kachchh, on executing a personal bond of Rs. 15,000/- (Rupees Fifteen 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 injuries to the interest of the prosecution;

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

[d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on alternate Monday of every English calendar month for a period of six months between 11:00 a.m. to 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 this Court;

10. 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. 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 present application stands allowed accordingly. Rule made absolute to the aforesaid extent.

Direct service is permitted.