

(2023) 11 GUJ CK 0012
In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 17052 Of 2023

Ramlal Nanji Kasraji Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 10-11-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Gujarat Prohibition Act, 1949 — Section 65(e), 81, 98(2), 116B
Indian Penal Code, 1860 — Section 120B, 465, 467, 471

Citation : (2023) 11 GUJ CK 0012

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Keval G Brahmbhatt (Barot), Soham Joshi

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with C.R.No.11204021230302 of 2023 registered with Dakor Police Station, District Kheda for the offence punishable under Sections 65(e), 116-B, 98(2) and 81 of the Gujarat Prohibition Act and Sections 465, 467, 471 and 120B of the Indian Penal Code.

2. Learned advocate Mr. Brahmbhatt appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions. It is submitted that applicant has been arrested on 09.07.2023 and since then he is in jail. Investigation is completed and after submission of charge-sheet, present bail application is preferred. It is further submitted that the applicant accused is the driver of the vehicle which was used for transporting the prohibited muddamal liquor. Thus, considering the overall facts of the present case, applicant may be enlarged on bail.

3. Learned APP Mr. Soham Joshi appearing on behalf of the respondent-State has objected present bail application and submitted that considering the gravity of offence, the applicant may not be enlarged on bail.

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. I have perused the police papers as well as other documents produced by the applicant along with the memo of the application. It is found out from the record that investigation is completed and charge-sheet is filed. The applicant accused is in judicial custody since 09.07.2023. The applicant accused is the driver of the vehicle which was used for transporting the prohibited muddamal liquor. Thus, I am inclined to consider the present bail application.

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

7. 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.

8. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with C.R.No.11204021230302 of 2023 registered with Dakor Police Station, District Kheda, 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 injurious 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. and 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;

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. 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 present application stands allowed accordingly. Direct service is permitted.