

(2022) 02 GUJ CK 0074

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 1103 Of 2022

Ravibhai Vijaybhai Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 18-02-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 406, 409, 420

Citation : (2022) 02 GUJ CK 0074

Hon'ble Judges : Niral R. Mehta, J

Bench : Single Bench

Advocate : Ashish M Dagli, Manan Mehta

Final Decision : Allowed

Judgement

Niral R. Mehta, 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 No.C.R.No.11209041211735 of 2021 registered with Prantij Police Station, Sabarkantha for offences punishable under Sections 406, 409, 420 and 120B of IPC.

2) Learned advocate for the applicants submits that the accused, who are named in the FIR, are main kingpins of the alleged paper leakage case, who conspired and leaked the paper. He submits that the applicants are the father and son and falsely implicated in the offence and have not played any role. He submits that applicant No.1 is aged 22 years and has completed B.Ed and applicant No.2 is an agriculturist. He further submits that the owner of the press namely Mudresh Purohit has also been protected by way of orders dated 22.12.2021. He further submits that the main accused i.e. Kuldeep Nalinbhai Patel, who has circulated examination papers to students, has been released on regular bail by the Sessions Court Sabarkantha at Himmatnagar. He also submits that similarly

situated co-accused persons, who are students, have been released on regular by Coordinate Benches of this Court. He further submits that looking to the role of the present applicants, the present application may be allowed.

3) 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.

4) Learned APP appearing on behalf of the respondent-State has to be viewed very seriously as it jeopardizes the careers of thousands of meritorious candidates, and opposed grant of regular bail looking to the nature and gravity of the offence.

5) Learned Advocates appearing on behalf of the respective parties do not press for 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 FIR is registered on 17.12.2021 for the offence, which is alleged to have taken place on 10.12.2021;

II. The applicants are arrested and sent to judicial custody on 16.12.2021;

III. The Investigation is almost over;

IV Applicant No. 1 is a student aged 24 years;

IV. Looking to the role of the present applicants and identically situated other accused have been released by Coordinate Benches of this Court vide Criminal Misc. Application No. 1400 of 2022, Criminal Misc. Application No. 792 of 2022, Criminal Misc. Application No. 1784 of 2022 with allied matters and Criminal Misc. Application No. 2947 of 2022 with allied matters.

V. Considering the totality of the matter and on the ground of parity, the present application deserves to be allowed.

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

VII. Main accused i.e. Kuldeep Nalinbhai Patel, who has circulated papers, has been enlarged on regular by Sessions Court, Sabarkantha at Himmatnagar.

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.

8) 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 applicant on regular bail.

9) Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with FIR being C.R.No.11209041211735 of 2021 registered with Prantij Police Station, Sabarkantha for offences punishable under Sections 406, 409, 420 and 120B of IPC, on executing a personal bond of Rs.10,000/- (Rupees Ten 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 passports, 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) furnish the present addresses of their residences to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residences without prior permission of Trial Court;

10) The authorities will release 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.

11) 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.

12) 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.

13) Rule is made absolute to the aforesaid extent. Direct service is permitted.