

(2022) 06 GUJ CK 0134

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 10895 Of 2022

Rizwankhan Mehboobkhan Pathan

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 21-06-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Gujarat Prohibition Act, 1949 — Section 65A, 65E, 98(2), 116(B)

Citation : (2022) 06 GUJ CK 0134

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Prerak R Bhatt, Aarti S Tiwari, Shruti Pathak

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. Rule. Learned APP waives service of notice of Rule on behalf of respondent State. By consent, Rule is fixed forthwith.
2. The applicant, by way of this application filed under Section 439 of the Code of Criminal Procedure, seeks regular bail in connection with the FIR being C.R. No.11200010220874 of 2022 registered with Valsad Town Police Station, Dist. Valsad, for the offences punishable under Sections 65(A), 65(E), 98(2) and 116(B) of the Prohibition Act.
3. It is the submission of learned counsel for the applicant that he is suffering confinement since 24.05.2022. Hence, further detention of the applicant is unwarranted.
4. Learned APP has opposed the bail application contending that, considering the conduct of the applicant and nature of accusation, the discretion may not be exercised in favour of the applicant.
5. Having carefully scrutinized the case papers, it appears that, the applicant was

driver of the vehicle. The person from whom contraband liquor was recovered, is already enlarged on bail by this Court. Considering the past antecedents of the applicant, this Court is of the view that, application deserves consideration with imposing stringent conditions.

6. Hence, present application is allowed and the applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.11200010220874 of 2022 registered with Valsad Town Police Station, Dist. Valsad, on executing a personal bond of Rs.10,000/- (Rupees Ten thousands only), with one surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that he shall;

No.

Conditions

(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 India without prior permission of the Sessions Judge concerned;

(e)

furnish latest 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 the trial Court;

(f)

not enter into the limits of City & District: Surat for a period of six months, except for the purpose of attending the Court proceedings, if any;

7. 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 learned 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. At the trial, learned 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. Rule is made

absolute to the aforesaid extent. Direct service is permitted.