

(2024) 05 GUJ CK 0065

In the Gujarat High Court

Case No : R/Criminal Appeal (For Anticipatory Bail) No. 1157 Of 2024

Ronak Hemubhai Rabari & Ors

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 30-05-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 324, 437

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(I)(s), 3(2)(va)

Citation : (2024) 05 GUJ CK 0065

Hon'ble Judges : M. K. Thakker, J

Bench : Single Bench

Advocate : Kishan R Chakwawala, M S Doshi, H K Patel

Final Decision : Allowed

Judgement

M. K. Thakker, J

1. Rule. Learned APP, Ms. Ashmita Patel waives service of notice of Rule on behalf of respondent-State and learned advocate Mr.M.S.Doshi waives service of notice of Rule on behalf of the respondent No.2-original complainant. Learned advocate Mr.M.S.Doshi is permitted to file his Vakalatnama with the Registry of this Court.

2. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicants-accused has prayed for anticipatory bail in connection with the FIR being C.R.No.I-11191040240999 of 2024 registered with Sardarnagar Police Station, Ahmedabad for the offences punishable under Sections 143, 147, 148, 149, 324 and 437 of IPC and Sections 3(2) (va) and 3(1)I(s) of the Atrocities Act.

3. Learned advocate Mr.Chakwawala for the applicant submits that the nature of allegations are such for which custodial interrogation at this stage is not

necessary. He further submits that the applicants will keep themselves available during the course of investigation, trial also and will not flee from justice.

4. Learned advocate Mr.Chakwawala for the applicants on instructions states that the applicants are ready and willing to abide by all the conditions including imposition of conditions with regard to powers of Investigating Agency to file an application before the competent Court for his remand. He further submits that upon filing of such application by the Investigating Agency, the right of applicants accused to oppose such application on merits may be kept open. Learned advocate, Mr.Chakwawala therefore, submits that considering the above facts, the applicant may be granted anticipatory bail.

5. Learned Additional Public Prosecutor Mr.Patel appearing on behalf of the respondent-State has opposed grant of anticipatory bail looking to the nature and gravity of the offence.

6. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused as well as on considering the following aspects this Court is inclined to grant anticipatory bail to the applicants as the matter is already settled between the parties.

(a) affidavit filed by the original complainant stating that settlement is arrived between the parties and not having any objection if the anticipatory bail is granted to the applicants.

(b) though allegations are made in the FIR with regard to the Atrocities, but the complainant himself has given the consent to release the applicants on anticipatory bail.

(c) It is reported that all the injured persons and the complainant are discharged from the hospital.

(d) report filed by the ACP 'G' Division, Ahmedabad suggests that despite various reminders, no medical certificates were provided.

7. In the facts and circumstances of the present case, this Court is inclined to consider the case of the applicants.

8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Ors., reported at [2011] 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of Shri Gurubaksh Singh Sibbia & Ors. Vs. State of Punjab, reported at (1980) 2 SCC 565.

9. In the result, the present application is allowed. The applicants are ordered to be released on anticipatory bail in the event of their arrest in connection with a FIR being C.R.No.I-11191040240999 of 2024 registered with Sardarnagar Police Station, Ahmedabad, on executing a personal bond of Rs.10,000/- (Rupees Ten

Thousand Only) each with one surety of like amount on the following conditions that the applicants:

(a) shall cooperate with the investigation and make himself available for interrogation whenever required;

(b) shall remain present at concerned Police Station on 01.06.2024 between 11.00 a.m. to 2.00 p.m.;

(c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

(d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

(e) shall at the time of execution of bond, furnish the addresses to the investigating officer and the court concerned and shall not change his residence till the final disposal of the case till further orders;

(f) shall not leave India without the permission of the concerned trial court and if having passport shall deposit the same before the concerned trial court within a week; and

(g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide it on merits;

10. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicants. The applicants shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if, ultimately, granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicants, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order.

11. At the trial, the concerned trial court shall not be influenced by the prima facie observations made by this Court in the present order.

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