

(2022) 01 GUJ CK 0104
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 1816 Of 2022

Roshan Pravinbhai Vasava

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 27-01-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 323, 307, 427, 504, 506(2)

Citation : (2022) 01 GUJ CK 0104

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Zubin F Bharda, Krina Calla

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. Rule. Learned APP waives service of notice of Rule on behalf of respondent-State.

2. Learned advocate for the applicants, on instructions, does not press this application qua applicant no.2 â?" Ketanbhai Rajubhai Vasava.

Hence, the present application stands disposed of as not pressed qua applicant no.2 â?" Ketanbhai Rajubhai Vasava. Rule is discharged qua applicant

no.2.

3. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant-accused has prayed for anticipatory

bail in connection with the FIR being C.R. No.11199050211678 of 2021 registered with Valiya Police Station, District: Bharuch for the offences under

Sections 143, 147, 148, 149, 323, 307, 504, 506(2) and 427 of IPC.

4. Learned advocate for the applicant submits that the applicant is innocent and he has been falsely implicated in the alleged offence. The custodial interrogation of the applicant is not essential for the purpose of investigation.

Learned advocate for the applicant states that out of two offences against him, in one offence, this Court stayed the FIR and in another offence, the Court has acquitted the present applicant on the basis of settlement.

5. Learned Additional Public Prosecutor appearing on behalf of the respondent â?" State has opposed grant of anticipatory bail stating inter alia that

the allegations against the applicant are grave and serious in nature and custodial interrogation is necessary for further investigation of the case.

6. Having heard the learned advocates for the respective parties and perusing the material placed on record and taking into consideration the facts of

the case, it appears that so far role of the present applicant namely Roshan Pravinbhai Vasava is concerned, the injury alleged to have been caused by

him upon the person as referred in the FIR is not on the vital part of the body. The applicant is having similar role to those persons who have been

given benefit of anticipatory bail by the Sessions Judge. Therefore, custodial interrogation of the present applicant is not required.

7. Considering the facts and circumstances of the case and the role attributed to the present applicant in the alleged offence, I find no reason to

decline pre-arrest bail to the applicant. In the result, the present application is allowed. The applicant is ordered to be released on bail in the event of

his arrest in connection with a FIR being C.R. No.11199050211678 of 2021 registered with Valiya Police Station, District: Bharuch on his executing a

personal bond of Rs.10,000/-(Rupees Ten Thousand Only) with one surety of like amount on the following conditions:

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

(b) shall remain present at concerned Police Station on 08.02.2022 between 11.00 a.m. and 2.00 p.m.;

(c) shall not enter the limits of Valiya Police Station, Dist: Bharuch for a period of four months except for the purpose of marking presence before the concerned police station;

(d) 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;

(e) 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;

(f) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change his residence till

the final disposal of the case till further orders;

(g) shall not leave India without the permission of the Trial Court and if having passport shall deposit the same before the Trial Court within a week;

and

(h) 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;

8. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The

applicant 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 applicant, 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.

9. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

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