

(2024) 05 GUJ CK 0054

In the Gujarat High Court

Case No : R/Criminal Appeal (For Anticipatory Bail) No. 964 Of 2024

Sagar Balubhai Hirpara

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 21-05-2024

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(va), 14A
Indian Penal Code, 1860 — Section 323

Citation : (2024) 05 GUJ CK 0054

Hon'ble Judges : Pranav Trivedi, J

Bench : Single Bench

Advocate : Anup S Bhavsar, Jayprakash Umot, Utkarsh Sharm

Final Decision : Allowed

Judgement

Pranav Trivedi, J

[1] Admit. Learned Additional Public Prosecutor and Mr. Jayprakash Umot, learned advocate for the respondent no.2 – original complainant waive service of notice of admission on behalf of the respective respondents.

[2] By way of the present appeal preferred under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant has prayed to release him on anticipatory bail in case of his arrest in connection with the FIR No.11191020230707 of 2023 before Vastrapur Police Station, District: Ahmedabad for the offences punishable under Section 323 of Indian Penal Code and section 3(1) (r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

[3] Learned advocate appearing for the appellant has submitted that the appellant is an innocent person and on bare reading of the FIR, no prima facie case is made out against the appellant, and there is nothing on record to show that the present appellant has committed the alleged offence. It is further

submitted that no CCTV footage were collected or recovered by the investigating agency, and the complainant himself is a strong head person having criminal antecedents. Learned advocate for the appellant submits that the FIR is registered after a delay of almost four months, and therefore considering the nature of allegations, role attributed to the appellant, the appellant may be enlarged on anticipatory bail by imposing suitable conditions.

[4] Learned Additional Public Prosecutor appearing on behalf of the respondent No.1-State has opposed grant of anticipatory bail looking to the nature and gravity of the offence.

[5] Heard the learned Advocates for the respective parties and perused the papers specifically the statement of one witness Mr. Bharatbhai. From bare perusal, the statement of independent witness does not disclose that any untoward words were spoken by the present appellant.

[6] Having heard the learned advocate appearing for the parties and perused the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused, without discussing the evidence in detail, at this stage, I am inclined to grant anticipatory bail to the appellant. 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 6941, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitutional Bench in the the case of Shri Gurubaksh Singh Sibbia & Ors., as reported at (1980) 2 SCC 665.

[7] In the result, the present appeal is allowed by directing that in the event of appellant herein being arrested pursuant to FIR registered as FIR No.11191020230707 of 2023 before Vastrapur Police Station, District: Ahmedabad for the offences punishable under Section 323 of Indian Penal Code and section 3(1) (r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant shall be released on bail on furnishing a personal bond of Rs.10,000/-(Rupees Ten Thousand only) with one surety of like amount on the following conditions that the appellant shall:

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

(b) remain present at concerned Police Station on 28.05.2024 between 11.00 a.m. and 2.00 p.m.;

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

(d) 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) at the time of execution of bond, furnish the address to the investigating

officer and the court concerned and shall not change residence till the final disposal of the case till further orders; and

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

[8] At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the appellant on bail.

[9] The appeal is disposed of accordingly. Direct service is permitted.