

**(2019) 12 GUJ CK 0064**  
**In the Gujarat High Court**

**Case No :** R/Criminal Misc.Application No. 19089 Of 2019

Sagargiri Rameshgiri Aparnathi

APPELLANT

Vs

State Of Gujarat

RESPONDENT

**Date of Decision :** 27-12-2019

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 439  
Indian Penal Code, 1860 — Section 34, 120(B), 143, 147, 148, 149, 302, 326, 504, 506(2)  
Gujarat Police Act, 1951 — Section 135

**Citation :** (2019) 12 GUJ CK 0064

**Hon'ble Judges :** A.Y. Kogje, J

**Bench :** Single Bench

**Advocate :** Ashish M Dagli, JK Shah

**Final Decision :** Allowed

## Judgement

A.Y. Kogje, J

1. This application is filed by the applicants under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR

registered as C.R. No.I-86/2019 with 'B' Division Police Station, Junagadh for the offences punishable under Sections 302, 326, 143, 147, 148, 149,

504, 506(2), 120(B) and 34 of the Indian Penal Code and under Section 135 of the Gujarat Police Act.

2. Learned advocate appearing on behalf of the applicants submits that considering the nature of offence, the applicants may be enlarged on regular bail by imposing suitable conditions.

3. On the other hand, the learned Additional Public Prosecutor appearing for the respondent-State has opposed grant of regular bail looking to the

nature and gravity of the offence.

4. Learned Advocates appearing on behalf of the respective parties do not press for a further reasoned order.

5. I have heard the learned Advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered :-

I) The First Information Report is registered on 19.05.2019 for the offence which is alleged to have taken place on 18.05.2019;

II) The applicants are in custody since 24.06.2019;

III) The investigation has concluded and the chargesheet is filed; IV) The submission of learned Advocate for the applicants that the applicants were

never named in the First Information Report. However, in the further statements the names of the applicants have surfaced. However, despite the

witnesses saying that the witnesses will be able to identify, there is no test identification parade;

V) No antecedents are reported qua the applicants;

VI) The submission of learned Advocate for the applicants that the accused who were originally named in the First Information Report, the witnesses

in the subsequent statement have exonerated such named accused persons and;

VII) Learned Additional Public Prosecutor under the instructions of the Investigating Officer is unable to bring on record any special circumstances

against the applicants.

6. In the facts and circumstances of the case and considering the nature of the allegations made against the applicants in the First Information Report,

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

applicants on regular bail.

7. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with C.R. No.I-86/2019 with 'B'

Division Police Station, Junagadh 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 and shall not

- obstruct or hamper the police investigation and shall not play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, 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. & 2.00 p.m.;
- (f) furnish the present address of their 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 Trial Court and;
- (g) not enter the limits of City Junagadh, for a period of six months, except for marking presence and attending trial.
8. The authorities will release the applicants only if they are 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.
9. 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.
10. 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.
11. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct Service is permitted.