

(2024) 01 GUJ CK 0019

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 15121 Of 2023

Saileshbhai Nathabhai Chandu

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 02-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 302, 303, 341, 506(2)
Arms Act, 1959 — Section 25(1b)a, 25(2)(A), 27
Gujarat Police Act, 1951 — Section 135

Citation : (2024) 01 GUJ CK 0019

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Ashish M Dagli, JK Shah

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

1. Rule. Learned APP waives service of notice of Rule for and on behalf of respondent – State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regularbailinconnectionwith C.R.No.11211060210116 of 2021 registered with Dhajala Police Station, Surendranagar for the offence punishable under Sections 302, 341, 303, 506(2) and 114 of the Indian Penal Code, under Sections 25(2)(A), 25(1-b)a and 27 of the Arms Act and under Section 135 of the Gujarat Police Act.
3. Learned advocate Mr. Dagli appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions. It is submitted that applicant has been arrested on 24.03.2022 and since then he is in judicial custody. The investigation

is already completed and after submission of charge-sheet, present application is filed. It is further submitted that name of the present applicant accused was not mentioned in the FIR however, during the course of investigation, name of the present applicant accused has come on surface on the basis of the statement of the co-accused. It is alleged against the applicant that he has given the address of a person from whom the main accused has purchased revolver which was used in the offence. It is submitted that the other two unknown co-accused persons mentioned in the FIR have been enlarged on anticipatory bail by the concerned trial Court. Considering the above stated factual aspects, applicant may be enlarged on bail by imposing suitable terms and conditions.

4. Learned APP Mr. J. K. Shah appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is submitted that present applicant accused is a history-sheeter and total 17 offences are registered against the present applicant accused. Thus, considering the role attributed by the present applicant at the time of commission of crime, he may not be enlarged on bail.

5. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. It is found out from the record that applicant has been arrested on 24.03.2022 and since then he is in judicial custody. The investigation is already completed and after submission of charge-sheet, present application is filed. It is also found out from the record that applicant was not named in the FIR and he has been arraigned as an accused on the basis of the statement of the co-accused. It is alleged against the applicant that he has given the address of a person from whom the main accused has purchased revolver, which was used in the offence. It is also found out from the record that other two unknown co-accused persons mentioned in the FIR have been enlarged on anticipatory bail by the concerned trial Court. Considering the above stated factual aspects, I am inclined to enlarge the applicant on bail.

7. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation, reported in [2012]1 SCC 40 as well as in case of Satender Kumar Antil v. Central Bureau of Investigation & Anr. reported in (2022)10 SCC 51.

8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, 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 applicant on regular bail.

9. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with C.R.No.11211060210116 of 2021

registered with Dhajala Police Station, Surendranagar, on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

[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 the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on alternate Monday of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present 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 this Court;

[g] not to enter into Amreli District for a period of six months except for marking presence and attending the court proceedings.

10. 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 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.

11. 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 applicant on bail.

12. The present application stands allowed accordingly. Rule is made absolute. Direct service is permitted.