

(2020) 07 GUJ CK 0053

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 8725 Of 2020

Salman Abdul Rauf Saburiya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 21-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 143, 147, 148, 149, 186, 279, 307, 332,
353, 504, 506(2)
Gujarat Police Act, 1951 — Section 135

Citation : (2020) 07 GUJ CK 0053

Hon'ble Judges : Dr A. P. Thaker, J

Bench : Single Bench

Advocate : SS Saiyed, Maithili Mehta

Final Decision : Allowed

Judgement

A. P. Thaker, J

[1] Heard Mr. S.S. Saiyed, learned advocate for the applicant and Ms. Maithili Mehta, learned APP for the respondent State through Video-conferencing.

[2] The present application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with an FIR being C.R.No.I-73

of 2019 registered with Godhra â??Bâ? Division Police Station, District: Panchmahals for the offences under Sections 307, 332, 353, 143, 147, 148, 149, 186, 279, 504, 506(2), 120 (B) and 34 of the Indian Penal Code and Section 135 of the Gujarat Police Act.

[3] Learned advocate for the applicant submits that considering the nature of allegations, role attributed to the applicant, and the fact that the similarly

situated co-accused have been enlarged on bail by this Court, the applicant may be enlarged on regular bail by imposing suitable conditions.

[4] Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

[5] I have heard learned advocates appearing on behalf of the respective parties. Learned advocates appearing on behalf of the respective parties do not invite reasoned order.

[6] This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of Investigation, [2012] 1 SCC 40.

[7] In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, the role attributed to the present applicant and the fact that similarly situated co-accused have been released on bail, principle of parity would be applicable in the present application and therefore, I am of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an FIR being C.R.No.I-73 of 2019

registered with Godhra â??Bâ? Division Police Station, District: Panchmahals on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand

Only) with one surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that the applicant 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 every Monday of each English calendar month for a period of three months and thereafter,

alternate Monday for a period of six months, between 11:00 a.m. and 2:00 p.m.;

[f] furnish latest and permanent 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;

[8] 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 learned 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. At the trial, learned 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.

[9] Rule is made absolute to the aforesaid extent. Direct service is permitted.

[10] Registry is directed to intimate about this order to the concerned authorities through fax, email and/or any other suitable electronic mode.