

(2020) 08 GUJ CK 0080
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 10794 Of 2020

Salmanbhai Umedbhai Jam

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 07-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 323, 324, 325

Citation : (2020) 08 GUJ CK 0080

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

Bench : Single Bench

Advocate : Mahesh K Poojara, Maithili Mehta

Final Decision : Allowed

Judgement

Dr. A. P. Thaker, J

[1] Heard learned advocates appearing on both sides through video conferencing. RULE. Learned Additional Public Prosecutor waives service of notice of Rule on behalf of the respondent- State of Gujarat.

[2] The present application is filed under Section 439 of the Code of Criminal Procedure by the applicants for regular bail in connection with an FIR

No.11211015200340 of 2020 registered with Dhrangadhra City Police Station, District:Surendranagar for the offences under Sections 323, 324, 325

and 114 of the Indian Penal Code.

[3] Learned advocate for the applicants submit that the applicants have not inflicted any grave injuries to the injured. He further submitted that the

injured is also discharged from the hospital. He further submitted that the co-accused having inflicted grave injuries is already granted bail by this

Honourable Court. He submitted that considering the nature of allegations, role attributed to the applicants, the applicants 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. She submitted that knife has been recovered from the applicant and there are allegations of knife blow being given by the applicant. She has read over and relied upon the statement of one Hussainbhai in support of this say and prayed to reject present application.

[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. This Court has considered following aspects:-

(i) The applicants are very young aged 22 years and 19 years respectively.

(ii) Injured is out of danger and is already discharged from hospital.

(iii) One of the co-accused, who inflicted pipe blow is already granted bail by co-ordinate Bench of this Court in Criminal Misc. Application No.9326

of 2020 vide order dated 24.7.2020.

(iv) There are no allegations of knife blow in FIR.

(v) This Court has also considered the law laid down by Apex Court in the case of Sanjay Chandra Vs. Central Bureau Investigation, reported in

(2012) 1 SCC 40.

(vi) This Court has also taken into consideration the assurance given on behalf of the applicants that they will abide by all conditions that may be imposed by this Court.

[6] In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, I am of the opinion that

this is a fit case to exercise the discretion and enlarge the applicants on regular bail. Hence, the present application is allowed and the applicants are

ordered to be released on regular bail in connection with an FIR being FIR No.11211015200340 of 2020 registered with Dhrangadhra City Police

Station, District:Surendranagar 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 learned Trial Court and subject to the conditions that the applicants 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;

[7] 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. 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.

[8] Rule is made absolute to the aforesaid extent. Registry is directed to serve this order to the concerned authority through e-mail/fax or any other electronic mode.