

(2022) 11 GUJ CK 0048
In the Gujarat High Court
Case No : R/Criminal Appeal No. 1874 Of 2022

Samir @ Gamliyo Iqbalbhai Lodi Pathan	APPELLANT
Vs	
State Of Gujarat	RESPONDENT

Date of Decision : 11-11-2022

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(va) , 14A
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 143, 147, 148, 149, 294(b), 323, 506(2)
Gujarat Police Act, 1951 — Section 135

Citation : (2022) 11 GUJ CK 0048

Hon'ble Judges : Hemant M. Prachchhak, J

Bench : Single Bench

Advocate : Mihir Vakhariya, Maulik M Soni, CH Dave

Final Decision : Allowed

Judgement

Hemant M. Prachchhak, J

1. By way of this appeal filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act read with Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. bearing C.R. No. 11213022220548 of 2022 registered with Jepur City Police Station, Rajkot Rural for offences punishable under Sections 143, 147, 148, 149, 323, 294(b), 506(2) etc. of the Indian Penal Code and Section 135 of the Gujarat Police Act and also under Section 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard Mr.Vakhariya, learned counsel appearing for the appellants, Mr.Dave, learned Additional Public Prosecutor appearing for the respondent – State and Mr.Soni, learned counsel appearing for the respondent – original complainant no.2.

3. Learned advocate on behalf of the appellants has submitted that the

appellants are innocent and have not committed any offence as alleged in the FIR. He has submitted that after delay of one day, the FIR came to be lodged. He has submitted that one Kanabhai came and rescue the complainant and during the incident, he sustained injury, however, as per the statement recorded on 08.07.2022 it appears that he has given different statement and contrary to the FIR. He has submitted that the appellants are in the jail since 19.06.2022 and the investigation is over and the charge-sheet is filed. He has submitted that the appellants were involved in similar type of offence where they were released on bail. He has submitted that this Court may release the present appellants on regular bail subject to any stringent conditions as may be imposed by this Court.

4. Submissions of learned counsel appearing for the appellants have been strongly opposed by the learned Additional Public Prosecutor appearing for the respondent – State and learned counsel appearing for respondent – original complainant.

5. Learned Additional Public Prosecutor has submitted that the appellants have committed a serious offence and earlier they have committed similar type of offence and there is likelihood that they may again commit such type of offence and, therefore, they may not be released on bail. He has prayed to dismiss the present appeal.

6. Learned counsel appearing for the original complainant has adopted the arguments advanced by learned Additional Public Prosecutor and has requested the Court to dismiss the present appeal.

7. I have gone through the materials placed on record and the police papers and the charge-sheet papers and perused the FSL report. It appears that the allegation of having made caste related abuses not being specifically attributed to the appellants.

8. In the facts and circumstances of the case and considering the nature of allegations made in the FIR and without discussing the evidence in details as well as without going into details, prima-facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the appellants on bail.

9. Hence, the appeal is allowed and the appellants are ordered to be released on bail in connection with C.R. No. 11213022220548 of 2022 registered with Jipur City Police Station, Rajkot Rural on executing a 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;

[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] not enter in the revenue limit of Village Jetpur till the trial is over;

[e] furnish the present address of residence to the I.O. and also to the Court at the time of execution of the bond and shall not change the residence without prior intimation to the Investigating Officer concerned ;

[f] mark presence once in a month for a period of next six months at the nearest Police Station of his residence as stated by him to the Investigating Officer and Court concerned.

10. The Authorities will release the appellants 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 lower court having jurisdiction to try the case.

11. 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, 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 appellant on bail. Direct service is permitted.