

(2020) 08 GUJ CK 0045
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 10452 Of 2020

Sanjaybhai Manubhai Pawar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 144, 379, 429
Prevention Of Cruelty To Animals Act (Amendment), 1917 — Section 11(1)(a), 11(1)(I)
Gujarat Animal Preservation Act, 1954 — Section 8(2)

Citation : (2020) 08 GUJ CK 0045

Hon'ble Judges : A.S. Supehia, J

Bench : Single Bench

Advocate : Ronith Joy, Shruti Pathak

Final Decision : Allowed

Judgement

A.S. Supehia, J

1. RULE. Learned Additional Public Prosecutor waives service of notice of Rule on behalf of the respondent-State.

2. Heard the learned advocates for the respective parties by video conferencing.

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

registered as C.R. No.11219002200188 of 2020 registered with Ahwa Police Station, District Dang for the offences punishable under Sections 379,

429, 144 and 114 of the Indian Penal Code, 1860 and under Sections 11(1)(a) and 11(1)(I) of the Prevention of Cruelty to Animals Act (Amendment),

1917 and Section 8(2) of the Gujarat Animal Reservation Act.

4. Learned advocate 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. He has submitted that the applicant is in jail since 18.04.2020. He has submitted that the co-accused have been released on regular bail by this Court vide orders dated 20.05.2020 and 26.05.2020 passed in Criminal Misc. Application Nos.6741 of 2020 and 7139 of 2020 respectively. He has further submitted that from bare perusal of the said FIR, there is no overt act attributed to the applicant. He has submitted that there is no direct witness implicating the applicant and the allegations in the FIR against all the accused persons is similar. He has also submitted that from the FIR, it is not borne out that any material is recovered from the applicant to implicate him having objectionable activity relating to cruelty to animal and merely on the basis of suspicious, the applicant is falsely arraigned as accused in the present case.

5. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

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

7. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case,

nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is

a fit case to exercise the discretion and enlarge the applicant on regular bail.

8. I have considered the submissions canvassed by the learned advocate for the applicant and I have also perused the material placed on record.

9. This Court has taken into consideration the law laid down by the Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation,

[2012] 1 SCC 40.

10. Having regard to the above submissions and in the facts and circumstances of the case and considering the nature and gravity of accusation made

against the applicant in the FIR, this Court is of the view that discretion is required to be exercised in favour of the applicant for grant of bail and, since

there is no possibility of tampering with the evidence as charge-sheet is already submitted. Moreover, the applicant assure that he will abide by the

terms and conditions that may be imposed by the Court and shall not commit any breach.

11. Further I do not intend to go into the merits of the matters and I am persuaded to exercise my discretion in favour of the applicant. The investigation is over and the charge-sheet has already been filed and the trial would take a considerable long period of time.

12. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with C.R. No.11219002200188 of 2020 registered with Ahwa Police Station, District Dang on executing his personal bond of Rs.10,000/- (Ten Thousand) 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(s), if any, to the Trial Court within a week;
- (d) not leave the India without prior permission of the Trial Court concerned;
- (e) mark his presence before the concerned Police Station between 1st to 10th day 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 his 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;

11. 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.

12. 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.

13. 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.

14. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Registry is directed to intimate the concerned jail authority and the concerned Sessions Court about the present order by sending a copy of this order through Fax message, email and/or any other

suitable electronic mode. Learned advocate for the applicant is also permitted to send a copy of this order to the concerned jail authority and the

concerned Sessions Court through Fax message, email and/or any other suitable electronic mode.