

(2024) 01 GUJ CK 0037

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - Before Chargesheet)
No. 22782 Of 2023

Sarik Mohammad Juned Ansari

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 08-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 01 GUJ CK 0037

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : GG Trivedi, Hemant B Raval, KM Antani, Sonal J Bhavsar

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.11210030231120 of 2023 registered with Mahidharpura Police Station, Surat City for the offence punishable under Sections of the Indian Penal Code.

3. Learned advocate appearing on behalf of the applicants submits that considering the nature of the offence, the applicants may be enlarged on regular bail by imposing suitable conditions. It is submitted that the applicants have been arrested on 27.11.2023 and since then they are in judicial custody. The investigation is substantially over. The matter is settled between the parties. Learned advocate Ms. Sonal Bhavsar appearing for the original complainant has also supported the said contention. It is submitted by learned advocate Mr. Raval that the original complainant has also filed an affidavit inter alia stating that he has no objection if the applicants be enlarged on bail. Thus, considering the

aforesaid factual aspects, applicants may be enlarged on bail by imposing suitable terms and conditions.

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

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 applicants and the role played by the applicants.

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 applicants 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 applicants on regular bail. It is found out from the record that the applicants have been arrested on 27.11.2023 and since then they are in judicial custody. The investigation is substantially over. The matter is settled between the parties. The original complainant has also filed an affidavit inter alia stating that he has no objection if the applicants are enlarged on bail. Thus, considering the aforesaid factual aspects, I am inclined to consider this application.

9. Hence, the present application is allowed and the applicants are ordered to be released on regular bail in connection with C.R.No.11210030231120 of 2023 registered with Mahidharpura Police Station, Surat City, on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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] 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;

10. 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 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 applicants on bail.

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