
(2022) 06 GUJ CK 0022

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9238 Of 2022

Shivendrakumar Mundra Proprietor Of M/S J.S. Textile

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 03-06-2022

Acts Referred:

Citation : (2022) 06 GUJ CK 0022

Hon'ble Judges : Nisha M. Thakore, J

Bench : Single Bench

Advocate : Ronak A Kedia, Monali Bhatt

Final Decision : Allowed

Judgement

Nisha M. Thakore, J

1. This Court vide order dated 31.05.2022 passed following order:

"Heard Mr. Ronak A.Kedia, learned advocate for the applicant. Mr. Ronak A.Kedia, learned advocate for the applicant has drawn the attention of this Court to the Rojkam of the proceedings of Criminal Case No. 151863 of 2021 before the court of learned Additional Chief Metropolitan Magistrate, Court No.37, Ahmedabad and has submitted that no summons has been issued upon the applicant. He further undertakes before this Court that applicant will co-operate before the trial Court at the stage of recording of plea and remain present on the next date of hearing i.e. 20th June, 2022.

Considering the aforesaid assurance made by learned advocate for the applicant, let Notice be issued to respondent No.2 making it returnable on 3rd June, 2022. Ms. M.H.Bhatt, learned APP waives service of notice for and on behalf of the respondent No.1-State. In the meantime, ad-interim relief in terms of para 8(C) is granted.

Direct service is permitted today."

2. Today, when the matter is taken up for hearing, Mr. Dhaval V. Shah, learned advocate submits that he has instructions to appear on behalf of the respondent No.2.

Mr. Dhaval Shah is permitted to file his Vakalatnama on behalf of the respondent No.2. Registry is directed to accept the same.

3. Mr. Ronak A. Kedia, learned advocate appearing for the applicant has submitted that the applicant is personally present before this Court and he assured that he shall remain present before the concerned trial Court on the next date of hearing, which is fixed on 20.06.2022, at the stage of recording of plea. Learned advocate Mr. Kedia further submitted that the parties to the proceedings are exploring the possibility of settlement. He, therefore, prays to quash and set aside the impugned order of issuance of non-bailable warrant against the present applicant.

4. On the other hand, Mr. Dhaval Shah, learned advocate, under the instructions of his client, confirms that the parties are exploring the possibility of the settlement. However, he further submitted that if the settlement is not arrived at between the parties, then in that case, the applicant may be directed to remain present on the next date of hearing before the trial Court. He further submitted that when the matter was fixed for recording of plea on 04.04.2022, neither the applicant nor his advocate had remained present before the trial Court. He submitted that considering the fact that the applicant is based at Kolkata, the trial Court proceeded straightway for issuance of non-bailable warrant to secure his presence.

5. Heard learned advocates appearing for the respective parties as well as Ms. Monali Bhatt, learned APP appearing for the respondent No.1 State.

6. Considering the fact that the applicant, who is present before this Court, has assured that on next of hearing, he shall personally remain present before the trial Court and cooperate in the pending trial proceedings, the sole object of issuance of non-bailable warrant to secure the presence of the applicant in pending the trial proceeding is fulfilled. Hence, the impugned order dated 4.04.2022 issuing the non-bailable warrant against the applicant in Criminal Case No.151863 of 2021 issued by the learned Additional Chief Metropolitan Magistrate, Ahmedabad, is hereby quashed and set aside. It is directed that the applicant to abide by the aforesaid assurance and to remain present before the trial Court on the next date of hearing, which is fixed on 20.06.2022. It is further directed to the applicant to cooperate in the pending trial proceedings as and when his presence is required by the trial Court.

7. Hence, the application is allowed in the aforesaid terms. Direct service is permitted.