

(2022) 09 GUJ CK 0101
In the Gujarat High Court
Case No : R/Criminal Appeal No. 1594 Of 2022

Sohil Musabhai Hingora

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 16-09-2022

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(va), 14A
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 323, 324, 325, 504
Gujarat Police Act, 1951 — Section 135

Citation : (2022) 09 GUJ CK 0101

Hon'ble Judges : Nikhil S. Kariel, J

Bench : Single Bench

Advocate : Hemant B Raval, Mohammednazir A Bagban, L B Dabhi

Final Decision : Allowed

Judgement

Nikhil S. Kariel, J

1. Heard learned Advocate Mr. Hemant B. Raval appearing on behalf of the appellants and learned APP Mr.Dabhi for the respondent-State. Though served none appears on behalf of the respondent No.2-first informant.

2. This appeal is filed by the appellants, 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, 1973, for being released on regular bail in connection with F.I.R. registered as C.R. No.11213043220149 of 2022 on 06.06.2022 with Patanvav Police Station, District Rajkot (Rural), for the offences punishable under Sections 325, 324, 323, 504 and 114 of the Indian Penal Code, Sections 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 135 of the Gujarat Police Act.

3. Learned Advocate Mr. Raval for the appellants would submit that the appellants are innocent persons, however they have been falsely implicated in

the alleged offences. Learned Advocate Mr.Raval would submit that there is no role played by the appellants in the alleged offence and they have been in jail since 10.06.2022. Learned Advocate Mr. Raval, therefore, would request that this Court may be pleased to release the appellants on regular bail.

4. Learned APP Mr.Dabhi appearing for the respondent State has opposed grant of regular bail looking to the nature and gravity of offence.

5. This Court, having considered the submissions made by learned Advocates for the parties and having considered the documents on record, has considered the following relevant aspects:-

(1) That the applicants herein are stated to have inflicted stick blows upon the first informant and whereas it appears that the first informant had received a fracture on his wrist and fingers on account of such assault.

(2) It does not appear that the first informant, even at that relevant point of time was in any kind of danger.

(3) It also appears that the present applicants who had been arrested on 10.06.2022 and in the interregnum the Investigating Officer has also filed the charge-sheet.

(4) It also prima facie appears that no caste related abuses or offence have been alleged, except for offence punishable under Sections 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

(5) Considering the submissions made by learned APP Mr. Dabhi that the applicants are having antecedents of being involved in offences hereinbefore, i.e. applicant No.1 being involved in three offences and the applicant No.2 being involved in four offences, stringent conditions are also required to be imposed while granting bail, more particularly considering the fact that the applicants are stated to be neighbours of the field where the first informant was working.

6. This Court has 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.

7. In the facts and circumstances of the case and considering the nature of the allegations made against in the First Information Report, 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 appellants on regular bail.

8. Hence, the present appeal is allowed. The appellants are ordered to be released on bail in connection with F.I.R. registered as C.R. No.11213043220149 of 2022 on 06.06.2022 with Patanvav Police Station, District Rajkot (Rural), on executing a bond of Rs.10,000/- (Rupees Ten Thousand only) each with one surety of the like amount each 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 passports, 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] 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] not enter in the limits of Patanvav till the deposition of the first informant in the trial arise from the FIR in question is over;
 - [g] shall also furnish the address of residence outside Patanvav, where they would be residing during the said period, 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;
 - [h] mark their presence once in month for a period of next six months at the nearest Police Station of their place of stay, when they would be staying out of Patanvav. The nearest police station to be decided by the learned Trial Court.
9. 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.
10. 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 stage of trial, the trial court shall not be influenced by any observations of this Court which are of preliminary nature made at this stage, only for the purpose of considering the application of the appellants for being released on regular bail.
12. The appeal is allowed in the aforesaid terms. Direct service is permitted.