

(2024) 04 GUJ CK 0062

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Cancellation Of Bail) No. 7112 Of 2024

State Of Gujarat

APPELLANT

Vs

Jagdishsinh Bahadursinh Jadeja

RESPONDENT

Date of Decision : 18-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439(2)

Citation : (2024) 04 GUJ CK 0062

Hon'ble Judges : J. C. Doshi, J

Bench : Single Bench

Advocate : CH Dave

Final Decision : Dismissed

Judgement

J. C. Doshi, J

1. By way of the present petition under Section 439(2) of the Code of Criminal Procedure, 1973, the petitioner State has prayed to quash and set aside the order dated 05.01.2024 passed by the learned Additional Sessions Judge, Jamnagar in Criminal Misc. Application No.1677 of 2023, whereby the learned Session Judge has granted regular bail to the respondent – original accused.

2. Heard learned APP for the petitioner State.

3. In Bhagwan Singh v Dilip Kumar @ Deepu @ Depak reported in 2023 INSC 7613, the Apex Court after considering judgment in case of Dolat Ram v State of Haryana, (1995) 1 SCC 349; Kashmira Singh v Duman Singh, (1996) 4 SCC 693 and X v State of Telangana, (2018) 16 SCC 511, held as follows:

'13. It is also required to be borne in mind that when a prayer is made for the cancellation of grant of bail cogent and overwhelming circumstances must be present and bail once granted cannot be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it in

conducting to allow fair trial. This proposition draws support from the Judgment of this Court in Daulat Ram and others v. State of Haryana reported in (1995) 1 SCC 349, Kashmira Singh v. Duman Singh (1996) 4 SCC 693 and xxx v. State of Telangana (2018) 16 SCC 511.'

4. Learned APP though strongly argued to cancel the regular bail on submission that the learned Sessions Court while granting regular bail did not consider the factors to be considered for granting or rejecting the bail, has failed to submit any supervening circumstances being rendered it in conducting to allow fair trial. It is submitted that there is specific allegation that respondent accused had caught hold of the deceased and principal accused had inflicted knife blow on vital part of deceased. It is submitted that learned Trial Court has wrongly granted the benefit of parity. It is submitted that learned Trial Court ought to have consider that there are eye-witnesses of the incident. It is submitted that accused, victim and eye-witnesses are resident of same village and learned Trial Court did not restrict entry of respondent accused in the very same village which could further ignite the enmity between the parties. Therefore, it is submitted to allow the petition.

5. Having heard learned APP for the petitioner, at the outset, let refer para 6 of the impugned order dated 05.01.2024, which reads as under :-

"6. Considering the rival submissions of learned counsel for applicant and learned Public Prosecutor and on the perusal of application, affidavit filed by Investigating officer along with police papers, it appears that some altercation was taken place between the deceased Virendrasinh and co-accused Rajdipsinh on the matter of taking the water from water tanker. Keeping the grudge of above stated previous incident, applicant herein an accused person gave kick and fist blow to the deceased Virendrasinh and co-accused Radjipsinh inflicted knife blow injury to the deceased which caused death of deceased. It further appears that co-accused Kundansinh has been enlarged on regular bail by Hon'ble High Court of Gujarat vide order dated 22.12.2023 passed in CRMA No.22900 of 2023. Role of the applicant herein is almost similar to the co-accused Kundansin and his role is not more serious than the co-accused Kundansinh, therefore, benefit of parity should be given to the applicant herein and applicant is entitled for the regular bail on the ground of parity."

6. This Court finds no circumstances to adjudge the impugned order as unjust and contrary to the settled principles of law. The petitioner has failed to point out supervening circumstances, which may interfere with the fair trial.

7. Before parting with the order, I may also refer the observations made in the recent decision by the Hon'ble Apex Court in case of Kekhriesatuo Tep and others Vs.National Investigating Agency reported in (2023) 6 SCC 58. The relevant observation made in para 20 reads as under:-

"20. An interference by an Appellate Court and particularly in a matter when liberty granted to a citizen was being taken away would be warranted only in the

event the view taken by the Trial Court was either perverse or impossible. On this limited ground, we find that the appeals deserve to be allowed.”

8. Resultantly, present petition fails and stands dismissed.