
(2008) 05 SC CK 0126

In the Supreme Court Of India

Case No : Criminal Appeal No. 901 of 2008 (Arising out of S.L.P. (Criminal) No. 852 of 2008)

Sureshchandra Ramanlal

APPELLANT

Vs

State of Gujarat and Another

RESPONDENT

Date of Decision : 15-05-2008

Acts Referred:

Banking Regulation Act, 1949 — Section 46
Criminal Procedure Code, 1973 (CrPC) — Section 439, 70, 82
Penal Code, 1860 (IPC) — Section 120B, 406, 409, 420, 439

Citation : (2008) 3 GLH 113 : (2008) 7 JT 407 : (2008) 40 OCR 958 : (2008) 7 SCC 591

Hon'ble Judges : Tarun Chatterjee, J; J. M. Panchal, J

Bench : Division Bench

Advocate : Ejaz Maqbool, for the Appellant; Sunil Kumar, Hemantika Wahi, Pinky, Jesal and Sangeeta Singh, for the Respondent

Final Decision : Dismissed

Judgement

J.M. Panchal, J.—Leave granted.

2. The instant appeal is directed against judgment dated August 10, 2007 rendered by the learned single Judge of High Court of Gujarat at Ahmedabad in Criminal Miscellaneous Application No. 6590 of 2007 by which the prayer made by the appellant to enlarge him on anticipatory bail with reference to Crime Case No. 1681 of 2002, registered with Navrangpura Police Station, Ahmedabad, for alleged commission of offences punishable under Sections 406, 409, 420, 439, 471, 473(a) and 120B of IPC read with Section 46 of the Banking Regulation Act, is refused.

3. The record shows that in the year 2002 an FIR was lodged against the appellant and 13 other co-accused for alleged commission of offences punishable under Sections 406, 409, 420, 439, 471, 473(a), 120B of IPC and Section 46 of the Banking Regulation Act. The appellant had approached the High

Court for anticipatory bail but the same was disposed of as withdrawn by an order dated January 22, 2004. The appellant again preferred another application for obtaining anticipatory bail. The High Court rejected the same on the ground that though the previous application for anticipatory bail was disposed of on January 22, 2004, the appellant had neither surrendered before the Investigating Officer nor extended cooperation in the investigation, as a result of which the investigating agency had initiated proceedings against the appellant u/s 70 and 82 of the Code of Criminal Procedure, 1973. According to the High Court the appellant had no regard for law and, therefore, his prayer for anticipatory bail was liable to be rejected though he had pleaded his illness. In that view of the matter, the High Court has rejected the application for anticipatory bail giving rise to the instant appeal.

4. This Court has heard the learned Counsel for the parties and considered the documents forming part of the instant appeal. The appellant has pleaded that as he is aged about 75 years and suffering from various ailments, the anticipatory bail should be granted to him.

5. During the course of hearing of the instant appeal the State was directed to submit a report on the health of the appellant. Accordingly the State has submitted report dated May 10, 2008 submitted by Dr. V.K. Gautam (MS Ortho), Department of Orthopedic Surgery, B.J. Medical College, Civil Hospital, Asarwa, Ahmedabad, relating to the health of the appellant. As per the said report the appellant is diagnosed case of Lumbar Canal Stenosis with severe Lumbar Spondylolisthesis of L2-3-4 and L5S1. According to the said report he has severe Osteoarthritis below knee and deformities at knee. The report further states that the appellant has sustained fracture of ankle for which he has been operated and metal implants are found in his body. The report shows that the appellant is known heavy diabetic on oral anti-diabetic drugs and has hypoesthesia below D12-L1 and Anesthesia below L-3 due to Lumbar Canal stenosis and diabetic neuropathy. What is relevant to notice is that as per the said report the appellant is severely obese weighing 120 kgs. and he is not able to do his activities of daily living without at least two assistants. It is also mentioned in the report that he is absolutely bedridden due to severe osteoarthritis below knee, Lumbar Canal Stenosis, Osteoporosis, diabetic and obesity and that he needs special toilet and bathroom. It is highlighted in the said report that he has danger of having bedsores, pressure sores without specialized treatment and if left untreated, the diseases may lead to his death. According to Dr. Gautam, prognosis is not going to improve further due to increasing age and servile changes.

6. The record would indicate that there are as many as 49 accused, who were arrested and each one of them has already been enlarged on bail. The chairman, vice-chairman, managing director, 11 other directors, two general managers, accountant and as many as 30 loanees of the bank have been enlarged on bail. The appellant, at the relevant time, was ex-vice chairman of the Bank and he had resigned in the year 1999 due to his deteriorating health.

7. On the facts and in the circumstances of the case and, more particularly, having regard to the health of the appellant, this Court is of the opinion that interest of justice would be served if the appellant is enlarged on anticipatory bail subject to certain conditions.

8. For the foregoing reasons, the appeal succeeds. The appellant is enlarged on anticipatory bail with reference to Crime Case No. 1681 of 2002 registered with Navrangpura Police Station at Ahmedabad for the commission of offences punishable under Sections 406, 409, 420, 439, 471, 473(a), 120B of IPC and Section 46 of the Banking Regulation Act on his depositing a sum of Rs. 40 lacs with the respondent No. 2, i.e., Sabarmati Cooperative Bank (in liquidation). It would be open to the appellant to deposit the abovementioned amount in four equal monthly installments first of which would be deposited by May 23, 2008. The appellant shall make himself available for interrogation by police officer as and when required. The appellant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer. The appellant shall not leave India without the previous permission of the High Court.

9. If the appellant is arrested without warrant by an officer in charge of Navrangpura Police Station and is prepared to give bail he shall be released on bail in the sum of Rs. 50,000/- with like surety for the same amount. It would, thereafter, be open to the appellant to apply for regular bail u/s 439 of the Code of Criminal Procedure and the court hearing such an application shall decide the same on merits without being influenced by the fact that this Court has granted anticipatory bail to the appellant.

10. The appeal is allowed to the extent indicated hereinabove.