

(2020) 12 GUJ CK 0046
In the Gujarat High Court
Case No : R/Criminal Appeal No. 880 Of 2020

Thakarda Lalaji Kachraji

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 16-12-2020

Acts Referred:

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(5), 14(1)
Indian Penal Code, 1860 — Section 120B, 201, 302
Gujarat Police Act, 1951 — Section 135

Citation : (2020) 12 GUJ CK 0046

Hon'ble Judges : A.G.Uraizee, J

Bench : Single Bench

Advocate : Manish S Shah, Hardik Soni, Rushabh Seth

Final Decision : Allowed

Judgement

A.G.Uraizee, J

1. Admit. Learned Additional Public Prosecutor waives service of notice of admission on behalf of the respondent- State of Gujarat.

2. The present appeal is filed under Section 14(1) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act assailing the judgment

and order dated 30.09.2019 passed by the learned 4th Additional Sessions Judge, Sabarkantha at Idar in Criminal Misc. Application No. 635 of 2019,

where under, the bail application is preferred by the present appellant is dismissed.

3. Mr. Manish Shah, learned advocate for the appellant, submits that the appellant is arraigned as an accused in the FIR being C.R.No. 1-81 of 2019

registered with the Idar Police Station, District Sabarkantha for the offence punishable under Sections 302, 201, 120-B of the IPC and under Section

3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 135 of the G.P. Act.

4. Learned advocate for the appellant submits that the appellant preferred bail application being Criminal Misc. Application No. 635 of 2019 in the

Sessions Court, Idar, which is rejected by the learned Additional Sessions Judge vide impugned order.

5. Mr. Shah, learned advocate appearing for the appellant, submits that the investigation is over and charge sheet is filed. It is his further submission

that the entire case of the prosecution against the appellant is based on circumstantial evidence. It is his submission that the witnesses say that the

appellant was having relationship with the wife of the deceased. It is his further submission that wife of the deceased is also co-accused, who has

stated in her statement that she was having love affair with the appellant. According to his submission, except the statement of the co-accused, there

is no other evidence against the appellant. There is no discovery and recovery on the part of the appellant and therefore, considering the nature of

evidence, allegations, present appeal may be allowed and the appellant may be released on bail.

6. Mr. Hardik Soni, learned APP appearing for the respondent â?" state, opposed this appeal. He submits that the witnesses have stated in the

respective statement that the appellant and the co-accused namely Kalavatiben were having affair. He further submits that there is strong

circumstances pointing towards the involvement of the appellant in the offence. He, therefore, submits that there is no substance in the appeal and

therefore, may be dismissed.

7. Mr. Rushabh Sheth, learned advocate for Mr. Utsav Sheth learned advocate for the respondent â?" original complainant, has adopted the

arguments canvassed by the learned APP. Additionally, he submits that the appellant and mother of the complainant were having relationship and

there is a strong motive on the part of the appellant to murder the deceased. He, therefore, submit that the appeal may not be allowed.

8. I have heard learned advocates appearing on behalf of the respective parties. Learned advocates appearing on behalf of the respective parties do

not invite reasoned order.

9. In the facts and circumstances of the case and considering the nature of

allegations made against the appellant in the FIR, I am of the opinion that without expressing opinion on merits and arguments canvassed by the learned advocates on either side this is a fit case to exercise the discretion and enlarge the appellant on regular bail. Hence, the present application is allowed and the appellant is ordered to be released on regular bail in connection with an FIR being C.R.No. 1-81 of 2019 registered with the Idar Police Station, District Sabarkantha on executing a personal bond of Rs.10,000/-

(Rupees Ten Thousand Only) each with one surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that

the appellant 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 every Monday of each English calendar month for a period of three months and thereafter,

alternate Monday for a period of six months, between 11:00 a.m. and 2:00 p.m.;

[f] furnish latest and permanent 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 appellant only if he is 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 learned 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. At the trial, learned 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 appellant on bail.

11. Registry is directed to send the copy of the order through email or Fax to the concerned trial Court.