

(2020) 08 GUJ CK 0078

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9962 Of 2020

Thakor Dahyaji Punaji & 1 Other(s)

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 07-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 114, 323, 324, 326, 427, 504, 506(2)
Gujarat Police Act, 1951 — Section 135

Citation : (2020) 08 GUJ CK 0078

Hon'ble Judges : Bhargav D. Karia, J

Bench : Single Bench

Advocate : Yogendra Thakore, CM Shah

Final Decision : Allowed

Judgement

Bhargav D. Karia, J

1. Heard learned advocate Mr. Yogendra Thakore for the applicants and learned Additional Public Prosecutor Ms. C.M. Shah for the respondent-

State.

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being CR No.-

I/11206077200135/2020 registered with Modhera police station, District Mehsana for offences under Sections 323, 324, 326, 504, 506(2), 427 and 114

of the Indian Penal Code and section 135 of the Gujarat Police Act, 1951.

3. Learned Advocate appearing on behalf of the applicants submits that considering the nature of the offence, the applicants may be enlarged on

regular bail by imposing suitable conditions.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent

State has opposed grant of regular bail looking to the nature and gravity of the offence.

5. Learned Advocates appearing on behalf of the respective parties do not press for further reasoned order.

6. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicants on regular bail.

7. This Court has considered following aspects :

(a) Applicant no.1 is in jail since 22nd April, 2020 and applicant no.2 is in jail since 21st May, 2020.

(b) Investigation is over and charge-sheet is filed.

(c) It is submitted by the learned advocate for the applicants that role of the applicants stated in the charge-sheet is that of having iron pipe and stick

and no specific role is alleged against the applicants. Looking to the overall facts and circumstances of the present case, I am inclined to consider the case of the applicants.

8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of Investigation, reported in [2012] 1 SCC 40.

9. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with FIR being CR No.-

I/11206077200135/2020 registered with Modhera police station, District Mehsana 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 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 passport, if any, to the lower court within a week;

[d] not leave the State of Gujarat without prior permission of the concerned trial court till the trial is over;

[e] mark presence before the concerned Police Station between 1st to 10th day of every English calendar month till the trial is over;

[f] furnish the present 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 the concerned trial court;

10. The authorities will release the applicants 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. 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 trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

12. Rule is made absolute to the aforesaid extent. Direct service is permitted.

The Registry is directed to communicate this order to the concerned Court/ authority by Fax or Email.