

(2021) 07 GUJ CK 0046
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 12275 Of 2021

Tikmaram Bhiyaram Thori

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 27-07-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Gujarat Prohibition Act, 1949 — Section 65(A), 65(E), 81, 83, 98(2), 116B

Citation : (2021) 07 GUJ CK 0046

Hon'ble Judges : S.H.Vora, J

Bench : Single Bench

Advocate : S D Moghariya, Maithili Mehta

Final Decision : Allowed

Judgement

S.H.Vora, J

1. Learned Advocate for applicants seeks permission to withdraw the present application qua applicant No.2-Hanumanram Viramaram Jakhad with a

liberty to file a fresh application after filing of the charge-sheet before the learned competent Court. Permission, as prayed for, is granted. It is

clarified that if such an application is filed, the same shall be decided on its own merits and without being influenced by the present order of

withdrawal since this Court has not examined the merits of the matter at this stage. Application stands disposed of as withdrawn as requested qua

2. Rule. Learned APP waives service of notice of Rule on behalf of respondent-State.

3. Heard learned advocate, for the applicants and learned APP, for the respondent-State through V.C.

4. This application is filed under Section 439 of the Code of Criminal Procedure

for regular bail in connection with F.I.R. registered at C.R.

No.11211055210462 of 2021 with Wadhwan Police Station for the offences punishable under Sections 65(A), 65(E), 116-B, 81, 83 and 98(2) of the Prohibition Act.

5. Heard and examined the papers placed for consideration in support of the submission made at bar.

6. Upon hearing submission, following picture emerges on record :-

(i) Substantial investigation is over.

(ii) No past antecedent is registered qua the applicant No.1.

(iii) The offences alleged against the applicant No.1 are triable by Magisterial Court and considering the pendency before the concerned Magisterial

Court, there is no likelihood of commencement and conclusion of trial within near future and therefore, refusal of bail will amount to pre-trial

conviction, which is prohibited by law.

(iv) The applicant No.1 has deep root in the society, no apprehension as to flee away or escape trial or tempering with the evidence /witnesses is expressed.

(v) In view of above position emerging at the end of hearing, the application deserves consideration qua applicant No.1, but by imposing suitable

condition to be observed by the applicant No.1, pending investigation and trial.

7. Hence, the application is allowed qua applicant No.1- Tikmaram Bhiyaram Thori and the applicant No.1- Tikmaram Bhiyaram Thori is ordered to

be released on bail in connection with C.R. No.11211055210462 of 2021 with Wadhwan Police Station, on executing a bond of Rs.10,000/-(Rupees

Ten Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that the applicant No.1-

Tikmaram Bhiyaram Thori 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] not leave the territory of India without prior permission of the Sessions Judge concerned;

[d] appear before the Investigation Officer concerned, as and when required for investigation purpose and attend the Court concerned regularly.

[e] furnish the present address of residence along with the proof to the I.O. concerned and also to the Court at the time of execution of the bond and

shall not change the residence without prior permission of Sessions Court concerned;

8. The competent authority will release the applicant only if the applicant No.1- Tikmaram Bhiyaram Thori 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 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. At the trial, the 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 applicant No.1- Tikmaram Bhiyaram Thori on bail.

9. Rule made absolute qua applicant No.1- Tikmaram Bhiyaram Thori.

Direct service is permitted.