

(2024) 04 GUJ CK 0005
In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 5052 Of 2024

Vikramsinh Himmatsinh Parmar

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 01-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 04 GUJ CK 0005

Hon'ble Judges : M. R. Mengdey, J

Bench : Single Bench

Advocate : Altaf Y Charkha, Tirthraj Pandya

Final Decision : Allowed

Judgement

M. R. Mengdey, J

1. RULE. Learned APP waives service of rule 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 C.R.NO. 11207024230702 of 2023 registered with Godhara Taluka Police Station, Panchmahals.
3. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.
4. Learned APP appearing on behalf of the respondent-State has opposed grant of, inter alia, contending that the present applicant has played vital role in commission of offence in question, as the applicant had initially given kicks and fist blows upon the deceased, and thereafter, caught hold the deceased and the son of the present applicant had given stick blows on the head of the deceased which has resulted into death of the deceased. He, therefore, submitted to

dismiss the present application.

5. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. In present case, the investigation is over and charge-sheet has been filed. As per the case of prosecution, some quarrel had taken place between the present applicant, his son and the deceased. As a result of quarrel, the present applicant had initially given kick and fist blows to the deceased, however, upon perusal of the P.M.Note, there are no external injuries corresponding to the kicks and fist blows given by the present applicant to the deceased. The other role attributed to the present applicant in commission of offence in question is to the effect that the present applicant had caught hold the deceased while the other co-accused had inflicted a stick blow on the head of the deceased.

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

7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being C.R.NO. 11207024230702 of 2023 registered with Godhara Taluka Police Station, Panchmahals, on executing a personal 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 he shall;

(a) not take undue advantage of liberty or misuse liberty;

(b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not leave the State of Gujarat without prior permission of the Trial Court concerned;

(e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) furnish the present address of his 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 Trial Court;

9. The authorities will release the applicant 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.

10. 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 observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.

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