

(2020) 07 GUJ CK 0054

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 8803 Of 2020

Vinodkumar Vijaynarayan Tiwari

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 21-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 144, 439
Indian Penal Code, 1860 — Section 143, 147, 148, 188, 269, 325, 332, 337, 307,
395, 427, 431
Gujarat Prevention Of Anti Social Activities Act, 1985 — Section 3(2)

Citation : (2020) 07 GUJ CK 0054

Hon'ble Judges : Sangeeta K. Vishen, J

Bench : Single Bench

Advocate : Gajendra P Baghel, Nisha Thakor

Final Decision : Allowed

Judgement

Sangeeta K. Vishen, J

1. Rule. Ms.Thakor, learned Additional Public Prosecutor waives service of Rule on behalf of the respondent State.

2. The applicant â?" accused has preferred the present application under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in

connection with FIR No.11213091200637 of 2020 registered with Shapar-Veraval Police Station, Rajkot for the offence punishable under Sections

143, 147, 148, 325, 332, 337, 307, 395, 427, 431, 188, 269 of the Indian Penal Code and Section 144 of the Code of Criminal Procedure and sub-section

(2) of Section 3 of the Gujarat Prevention of Antisocial Activities Act.

3. Mr. Gajendra Baghel, learned advocate appearing on behalf of the applicant, at the outset, has placed on the record the order dated 7.7.2020 passed

by this court in Criminal Miscellaneous Application No.9000 of 2020 and other allied matters and submitted that the co-accused named in the very

First Information Report, have been released on regular bail. It is submitted that though the applicant is named in the First Information Report, no any

role has been attributed against the applicant. It is submitted that the applicant, being poor labourer, has family to look after and be released on regular

bail. It is also submitted that there is no criminal antecedent alleged or reported of the applicant. It is also submitted that even otherwise, the injuries

suffered by the police personnels were minor injuries. It is submitted as aforesaid, that the co-accused who have been alleged to have inflicted injuries

to the police officers, have been released on regular bail by the co-ordinate Bench of this Court. Thus, it is urged that considering the nature of the

offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Ms.Nisha Thakor, learned Additional Public Prosecutor appearing on behalf of the respondent State has opposed the grant of regular bail looking to

the nature and gravity of the offence. It is submitted that as is discernible from the First Information Report, the mob of the migrant labourers had

turned violent. Further, the mob had indulged in stone pelting and inflicting injuries to the police personnels performing their duty. Owing to the violence

by the mob, various police personnels, have sustained grievous injuries. Not only this, even a person from the press was manhandled. Thus, looking to

the nature of offence committed by the accused persons, the applicants be not released on bail.

5. Heard Mr. Gajendra Baghel, learned advocate for the applicant and Ms. Nisha Thakor, learned Additional Public Prosecutor for the respondent

State through video conference.

6. Learned advocates for the respective parties do not press for further reasoned order.

7. 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 applicant on regular bail.

8. This Court has considered the aspects, namely (i) the applicant is though

named in the First Information Report has not been attributed any role; (ii) the applicant is in jail since 19.5.2020; and (iii) it is submitted by the learned advocate for the applicant that the co-accused who have been named and have been attributed role in inflicting injuries, have been released on bail. Thus, the applicant be released on bail. This Court has also considered the principle enunciated by the Apex Court in the case of Sanjay Chandra vs. Central Bureau of Investigation, reported in (2012) 1 SCC 40. In view of the submissions canvassed by the learned advocate for the applicant and in view of the facts and circumstances of the present case, I am inclined to consider the case of the applicant.

9. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with First Information Report

No.11213091200637 of 2020 registered with Shapar-Veraval Police Station, Rajkot, on executing a personal bond of Rs.1,000/- (Rupees One

Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that the applicant 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] 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 shall adhere to its own circular regarding COVID- 19 and thereafter 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 learned 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. Needless to say, 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. Registry to communicate this order to the concerned court/authority through fax or e-mail, forthwith.