

(2022) 02 GUJ CK 0057

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 562 Of 2022

Vipul Pravinbhai Bagthariya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 15-02-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120(b), 143, 336, 427, 436, 447
Gujarat Police Act, 1951 — Section 135

Citation : (2022) 02 GUJ CK 0057

Hon'ble Judges : Niral R. Mehta, J

Bench : Single Bench

Advocate : Bhavin S Raiyani, Manan Mehta

Final Decision : Allowed

Judgement

Niral R. Mehta, J

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with the FIR being

C.R.No.I-004/2018 of 2018 registered with Dhoraji Police Station, Rajkot Rural of the offence punishable under Sections 336, 427, 447, 436, 143,

120(b) of the Indian Penal Code and Section 135 of the Gujarat Police Act.

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

regular bail by imposing suitable conditions.

3. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

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

5. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered:-

A) The present applicants have already been enlarged on regular bail. However, by way of non-bailable warrant that was issued as the applicants did

not remain present during the time of trial i.e. on the first date.

B) Since the other accused in connection with the said criminal case are on bail and considering the fact that the present applicants are behind bar

since last six months.

C) Considering the role attributed to the present applicants viz-a-viz the other accused who have been enlarged on bail. In my considered opinion the

present applicants deserve to be granted bail and accordingly, bail is granted.

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 applicants 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 applicants on regular bail.

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

004/2018 of 2018 registered with Dhoraji Police Station, Rajkot Rural 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 & 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 passports, 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 twice in a month before concerned Police Station i.e. Dhoraji Police Station, Rajkot Rural, and also to file an undertaking before the

concerned criminal Court on each and every date of the trial the present

applicants will remain present without fail;

(f) furnish the present addresses of their residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not

change the residences without prior permission of Trial Court;

9. 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.

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 applicants on bail.

12. Rule is made absolute to the aforesaid extent. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.

Direct service is permitted.