

(2020) 08 GUJ CK 0031

In the Gujarat High Court

Case No : R/Criminal Misc. Application No. 9646 Of 2020

Virendra @ Viren Ganpatsinh Chaudhari

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 467, 468, 471
Information Technology Act, 2000 — Section 66(B)(C)(D)

Citation : (2020) 08 GUJ CK 0031

Hon'ble Judges : Sangeeta K. Vishen, J

Bench : Single Bench

Advocate : Hardik H Dave, Nisha Thakor

Final Decision : Allowed

Judgement

Sangeeta K. Vishen, J

1. Heard Mr. Hardik H. Dave, learned advocate for the applicant and Ms. Nisha Thakor, learned Additional Public Prosecutor for the respondent â?

State, through video conferencing.

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

3. 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-

91 of 2019 registered with Umargaon Police Station, for the offence punishable under Sections 467, 468, 471, 120-B of Indian Penal Code, 1860 and

Section 66(B) (C) (D) of the Information Technology Act.

4. Mr. Hardik Dave, learned advocate for the applicant submitted that the applicant is not named in the first information report. A bare perusal of the

supplementary charge-sheet suggests that accused No.6 has provided the laptop of the applicant with login I.D. to the main accused. Except the said aspect, there is nothing in the charge-sheet so as to attribute the commission of the offence under sections 465, 467, 468, 471 and 120-B of the Indian Penal Code qua the applicant. Moreover, during the period from 09.08.2019 to 11.09.2019, the applicant was on leave attending his father who had met with an accident. The applicant was not aware about the usage of the laptop for such activities and that the applicant has not derived any benefit out of the transactions. It is submitted that the laptop with login I.D. was misused by the accused No.1 and that there is nothing on record to connect the applicant with the offences alleged in the first information report.

5. Ms. Thakor, learned Additional Public Prosecutor appearing on behalf of the respondent "State through video conference has opposed grant of regular bail looking to the nature and gravity of the offence. Ms. Nisha Thakor, learned Additional Public Prosecutor submitted that the applicant was an employee of the Authorized Aadhar Card Service Centre and who was provided with one time password, facilitating him to access the on-line software and it is the applicant who was alone permitted to operate the software for the purpose of issuance of Aadhar Card. Except the applicant, nobody could have used the one time password. Thus, the involvement of the applicant is very much there and the bail may not be granted to the applicant.

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

7. Having heard the learned advocates for the parties and perusing the material available 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 (a) in the first information report the applicant accused has not been named; (b) further, as is discernible from the supplementary charge-sheet, the role attributed against the applicant, is that the accused No.6 has provided the laptop with login I.D. of the applicant to the main accused; (c) neither in the first information report nor in the supplementary charge-sheet, any role has been

attributed to the applicant alleging involvement. Further, the applicant is aged 25 years and is in jail since 03.02.2020. Investigation is over and charge-

sheet is filed. Considering the principle enunciated by the Apex Court in the case of Sanjay Chandra vs. Central Bureau of Investigation, reported in

(2012) 1 SCC 40 and looking to the overall 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 FIR being CR No.I-91 of 2019

registered with Umargaon Police Station, on executing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local 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] 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;

[e] mark presence before the concerned Police Station between 1st to 10th day of every English calendar month between 11.00 a.m. and 2.00 p.m.;

[f] co-operate with the Investigating Officer whenever required; and

[g] 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 relating to COVID- 19 and, thereafter, 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. 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.

13. Registry to communicate this order to the concerned Jail Authority through fax or e-mail forthwith.
14. Direct service is permitted.