

(2020) 07 GUJ CK 0068

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9700 Of 2020

Yogeshbhai Bhagwanbhai Bambhaniya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 21-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 120B, 307, 324
Arms Act, 1959 — Section 25(1b)(a), 27(2)
Gujarat Police Act, 1951 — Section 135

Citation : (2020) 07 GUJ CK 0068

Hon'ble Judges : Vipul M. Pancholi, J

Bench : Single Bench

Advocate : Pravin Gondaliya, Chintan Dave

Final Decision : Allowed

Judgement

Vipul M. Pancholi, J

1. Rule. Learned Additional Public Prosecutor waives service of Rule on behalf of 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.11186008200689/2020 registered with Una Police Station for offence under Sections 307, 324, 120(B) and 34 of the Indian Penal Code, under

Sections 25(1-b)(a) and 27(2) of the Arms Act and Section 135 of the GP Act.

3. Learned Advocate appearing on behalf of the applicants submits that considering the nature of the offence, the applicants may be enlarged on regular bail by imposing suitable conditions.

4. Learned APP appearing on behalf of the respondent- State has opposed grant

of regular bail looking to the nature and gravity of the offence.

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

6. 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 applicants on regular bail.

7. This Court has considered following aspects,

(a) the applicants are in jail since 13.05.2020;

(b) the remand period is over and the investigation is almost concluded qua the applicants;

(c) even as per the case of the prosecution, the applicants were not present at the place of incident;

(d) I have considered the role attributed to the applicants;

(e) the injured is discharged from the hospital;

Therefore looking to overall facts of the present case, I am inclined to consider the case of the applicant.

8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of

Investigation, reported in [2012] 1 SCC 40.

9. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with FIR being C.R.

No.11186008200689/2020 registered with Una Police on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand only) each with one surety

each 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;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave the India 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 for a period of six months between

11:00 a.m. and 2:00 p.m.;

[f] 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;

[g] shall not enter into Una City for a period of six months, except for marking presence as also for attending Court proceedings;

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. 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. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by

Fax or Email forthwith.