

Saumil Rakeshbhai Patel Vs State Of Gujarat

Court: Gujarat High Court

Date of Decision: May 17, 2022

Acts Referred: Code Of Criminal Procedure, 1973 " Section 438
Indian Penal Code, 1860 " Section 114, 307, 324, 323, 504, 506(2)
Gujarat Police Act, 1951 " Section 135

Hon'ble Judges: Samir J. Dave, J

Bench: Single Bench

Advocate: Kumar H Trivedi, LB Dabhi

Final Decision: Dismissed

Judgement

Samir J. Dave, J

1. Rule. Mr. L. B. Dabhi, learned APP waives service of notice of Rule on behalf of respondent-State.

2. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicants accused have prayed to release them

on anticipatory bail in case of their arrest in connection with the FIR registered as C.R.No.11199028220317 of 2022 with Jhagadia Police Station,

Bharuch for the offenses punishable under Sections 307, 324, 323, 504, 506(2) and 114 of the Indian Penal Code and under Section 135 of the Gujarat

Police Act.

3. Learned advocate for the applicants states that present applicants have not given any blow to anyone and on the contrary they are victim and the

complainant as well as his friends are in drunken state and are aggressor of the said offence who have provoked for the scuffle. The applicants have

only inflicted wooden stick on the head of one witness and except the same, there is no other injuries as per the medical papers. He further states that

as per the version of the complainant, the incident has taken place in the hotel premises but no CCTV footages have been recovered to establish the

version of the complainant. He further states that the hotel is situated on the National Highway and, therefore, it is likely that the whole premises of

the hotel is under CCTV surveillance. He further states that the statement of the FSL Officer was recorded wherein no blood stains are discovered

from the place of the offence. He further states that as per the papers of charge sheet as well as FIR, the complainant has not sustained any serious

injury and only to hide the fact of he being in heavily drunken state and was aggressor in the offence, he filed false complaint. The complainant did not

take any treatment in the Government Hospital. He further states that the present applicants have no criminal antecedents and as per the affidavit

filed by the Investigating Officer, the complainant-victim is out of danger and investigation is over and charge sheet is filed. He further states that main

accused who has been alleged to have inflicted iron rod on the head of the complainant-victim has been released on regular bail by the session court.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of anticipatory bail submitting that the

applicants used sticks in the crime alleged and stuck the informant. The offence is very serious and punishable under Section 307 of the Indian Penal

Code. Investigation is completed and charge sheet qua present applicants are pending. The applicants are flee from the police arrest since long time.

There are all possibilities that they shall not cooperate with the trial too. Learned APP further states that custodial interrogation of all the applicants is

required to find out the motive of the crime. The investigation for the status of the applicants is required to be done and it is not possible without getting

the clue from the applicants. Learned APP also states that present applicants have filed anticipatory bail application before the sessions court after

coming to know about release of the main accused, who has inflicted the iron rod to the complainant-victim, on regular bail by the sessions court.

Hence, considering the over all aspects, present application may not be granted.

5. It appears from the FIR that the FIR has been registered at the instance of the hotel owner. The present applicants came to the hotel to have a

dinner at 8:00 p.m. They have also demanded Indian made foreign liquor, however, the person who was working in the hotel of the complainant has

denied for the same and therefore, scuffle was made. The complainant intervened in the scuffle. The applicants aggravate and started to use slang

and manhandled with the complainant and used stick pipe and knife and caused injuries to the complainant. The FIR was registered against main

accused Parth Gajera and present applicants. It also appears that the present applicants have used stick in the crime. Of course, the injured is

discharged from the hospital and not under the treatment and the investigation qua main accused namely Parth Gajera is concluded and charge sheet

is filed qua him. Present applicants are flee from the spot and the police too. Not only that but the applicants have filed application for anticipatory bail

after long period of time knowing about the fact that main accused has been released on regular bail by the sessions court. The applicants are facing

the charges for attempt to murder. They have made a rucks in hotel as their demand for liquor was not satisfied and caused the injury to the hotel

owner.

6. Having heard learned advocates appearing for the respective parties as well as considering the FIR and charge sheet papers and also the

observations made by learned Additional Sessions Judge while rejecting the application for anticipatory bail qua present applicants, I am fully in

agreement with the observations made by the learned Additional Sessions Judge. Hence, present application is rejected. Rule is discharged.