

Manglubhai @ Budhabhai Shantubhai Khachar Vs State Of Gujarat

Court: Gujarat High Court

Date of Decision: Jan. 10, 2024

Acts Referred: Code Of Criminal Procedure, 1973 " Section 439

Indian Penal Code, 1860 " Section 114, 307, 324, 504, 506(2)

Gujarat Police Act, 1951 " Section 135

Hon'ble Judges: Divyesh A. Joshi, J

Bench: Single Bench

Advocate: Brijrajsinh K Chudasama, Laxmansinh M Zala, KM Antani

Final Decision: Allowed

Judgement

Divyesh A. Joshi, J

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

C.R.No.11211059230136 of 2023 registered with Nani Moldi Police Station, District Surendranagar for the offence punishable under Sections 307,

504, 506(2), 114 and 324 of the Indian Penal Code and under 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 applicants may be enlarged on

regular bail by imposing suitable conditions. It is submitted that applicants have been arrested on 23.05.2023 and since then they are in judicial custody.

The investigation is already concluded and after submission of charge-sheet, present application is preferred. It is further submitted that the injured

victims were discharged from the hospital within a period of 8 days. It is further submitted that names of the present applicants accused have not been

disclosed before the medical officer where the victims have given their history. Considering the above stated factual aspects, applicants may be

enlarged on bail by imposing suitable terms and 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. It is

further submitted that role of the applicants accused is clearly spelt out from the compilation of charge-sheet papers and the injured victims are the

eye-witness who have narrated the entire sequence of events. Thus, considering the role attributed to the applicants accused at the time of

commission of crime, applicants may not be enlarged on bail.

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 of the investigation and considered the

allegations levelled against the applicants and the role played by the applicants. It is found out from the record that applicants have been arrested on

23.05.2023 and since then they are in judicial custody. The investigation is already concluded and after submission of charge-sheet, present application

is preferred. The injured victims were already discharged from the hospital. As submitted by learned advocate for the applicant, the names of the

present applicants accused have not been disclosed by the victims before the medical officer who has recorded the history of the victims. Considering

the above stated factual aspects, I am inclined to consider this application.

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 as well as in case of Satender Kumar Antil v. Central Bureau of Investigation & Anr. reported in (2022)10

SCC 51.

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 and the applicants are ordered to be released on regular bail in connection with C.R.No.11211059230136

of 2023 registered with Nani Moldi Police Station, District Surendranagar, on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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;

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

[d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on alternate Monday 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 this Court;

[g] not enter into Chotila Taluka till the conclusion of the trial except for marking presence and attending the Court proceedings.

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. 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.

10. 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.

11. The present application stands allowed accordingly. Rule is made absolute. Direct service is permitted.