

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 4866 of 2022**

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SOBA AUGUSTIN BENSON

Versus

STATE OF GUJARAT

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Appearance:

MR SANJAY PRAJAPATI(3227) for the Applicant(s) No. 1

MR. MANAN MEHTA, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI****Date : 09/12/2022****ORAL ORDER**

1. Heard learned advocate Mr. Sanjay Prajapati appearing for the applicant and learned APP Mr. Manan Mehta appearing for the respondent – State.
2. This application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR registered at C.R.No. C.R.No.11207080210011 of 2021 registered with Cyber Crime Police Station, Panchmahal Godhra Range, District:- Panchmahal for the offence punishable under Sections 120 (B), 420, 406, 417, 419, 464, 465, 467, 468, 471, 489-A, 114 of the Indian Penal Code and under section 66 (C) (D) of the Information Technology Act.
3. Learned advocate for the applicant submitted that, the

applicant is not involved in commission of offence as alleged in the FIR and therefore, looking to the role of the applicant and nature of the allegations, the applicant is required to be enlarged on regular bail by imposing suitable terms and conditions.

4. Today, learned advocate for the applicant has tendered an undertaking given by the accused person namely Soba Augustin Benson dated 26.11.2022 which is notarized before Jailer of Godhara Sub Jail wherein he has stated that he is ready and willing to deposit a sum of Rs. 12,00,000/- within a period of three months from the date of his release and will deposit sum of Rs. 5,00,000/- within a period of one month from the date of his release. The said undertaking dated 26.11.2022 is taken on record.
5. On the other hand, learned APP appearing for the respondent – State opposed grant of regular bail looking to the nature and gravity of the offence.
6. In the facts and circumstances of the case and considering the nature of allegations, this Court is of the opinion that, discretion is required to be exercised to enlarge the applicant on regular bail. This Court has considered the following facts while exercising discretion in favour of the applicant :-

(a) The applicant is in jail since 18.11.2021.

(b) Investigation is over and the charge-sheet is filed.

(c) The applicant has by way of an undertaking dated 26.11.2022 which is taken on record, shown willingness to deposit a sum of Rs, 12,00,000/- within a period of three months from the date of his release out of which, he shall deposit Rs. 5,00,000/- within a period of one month from the date of his release and since, the aforesaid undertaking is given on his own volition by the applicant and considering the fact that total alleged amount of Rs. 27,76,501/- was committed by way of Cyber Crime as per the FIR and there are three accused persons, this Court has thought it fit to exercise the discretion in favour of the present applicant.

(d) According to learned advocate Mr. Prajapati, there are no past antecedents against the applicant.

7. In view of the aforesaid facts, without discussing the evidence in detail, this Court, prima facie, is of the opinion that, this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, present application is allowed and the applicant is ordered to be released on regular bail in connection with the FIR being C.R.No.11207080210011 of 2021 registered with Cyber Crime Police Station, Panchmahal

Godhra Range, District:- Panchmahal on executing personal bond of Rs.10,000/- (Rupees Ten thousand only) with one surety of the like amount to the satisfaction of the learned Trial Court and subject to the conditions that he 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 India without prior permission of the Sessions Judge concerned;

[e] furnish latest 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 trial Court;

[f] mark his presence before the concerned police station in the first week of every month till the trial is over;

**[g] not to leave the District:- Panchmahal without prior permission of the Sessions Judge concerned;**

8. The applicant shall deposit a sum of Rs, 12,00,000/- within a period of three months from the date of his release before the Trial Court. He shall deposit Rs. 5,00,000/- within a period of one month from the date of his release before the Trial Court. In case, if the applicant fails to comply with the undertaking given by him, the bail shall stand cancelled automatically, since, the undertaking is given by the applicant on his volition.
9. The Authorities will release the applicant only if the applicant 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.
10. Bail bond to be executed before the learned 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. At the trial, learned 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 applicant on bail. Rule is made absolute to the aforesaid extent.
11. The application is allowed in the aforesaid terms. Rule is

made absolute to the aforesaid extent.

Direct service is permitted.

VARSHA DESAI

**(NIRZAR S. DESAI,J)**