

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 17807 of 2022**

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DAVID EDAN FORJINDAR

Versus

STATE OF GUJARAT

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Appearance:

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

SURESH M CHAUDHARY(9938) for the Applicant(s) No. 1

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

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CORAM:HONOURABLE MR. JUSTICE SAMIR J. DAVE**Date : 15/12/2022****ORAL ORDER**

The present bail application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR being I-C.R.No. 11207080210011 of 2021 registered with Cyber Crime Police Station, Panchmahal Godhra Range, District Panchmahal for the offence punishable under Section 120(B), 420, 406, 417, 419, 464, 465, 467, 468, 471, 489-A and 114 of the Indian Penal Code as well as Sections 66(C)(D) of the Information Technology Act.

Learned advocate for the applicant submits that considering the nature of allegations, role attributed to the applicant, the applicant may be enlarged on regular bail by

imposing suitable conditions. That, other co accused namely Soba Augustin Benson has been released on regular bail by coordinate bench of this court in Criminal Misc. Application No. 4866 of 2022 on 09.12.2022 thus on the ground of parity, the applicant may be released on regular bail. Moreover, the applicant has filed an undertaking before the Jailor declaring that he will deposit a sum of Rs. 12,00,000/- within a period of three months from my release and he will deposit a sum of Rs. 5,00,000/- within a period of one month from the date of his release. Thus, while considering the undertaking filed by the applicant, prayer of the applicant may be considered. That, investigation of the present offence has been completed and the investigating officer has filed charge sheet against the present applicant and therefore, he has requested to enlarge the applicant on regular bail.

Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. That, the applicant is involved in the serious offence as alleged and therefore, no leniency view would be taken in favour of the applicant while releasing him on bail. Ultimately, it was submitted by learned APP for the respondent-State to reject present application.

Having heard learned advocate for the applicant and learned APP for the respondent-State as well as papers produced on record, it appears that the investigation is over against the present applicant and charge-sheet has been filed by the investigating officer against the present applicant. It appears that other co accused namely Soba Augustin Benson has been released on regular bail by coordinate bench of this court in Criminal Misc. Application No. 4866 of 2022 on 09.12.2022, thus, on the ground of parity also, the prayer of the applicant requires consideration.

It further appears that the applicant has filed an undertaking before the Jailor declaring that he will deposit a sum of Rs. 12,00,000/- within a period of three months from my release and he will deposit a sum of Rs. 5,00,000/- within a period of one month from the date of his release. Thus, bonafides shown by the applicant requires consideration.

Since trial will take its own time to conclude, the presence of the applicant is not required in judicial custody and therefore, I am of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Thus, in the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, the prayer of the applicant requires

consideration.

Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with anFIR being I-C.R.No. 11207080210011 of 2021 registered with Cyber Crime Police Station, Panchmahal Godhra Range, District Panchmahal on executing a 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 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 territory of India without prior permission of the Sessions Judge concerned;
- [e] furnish latest and permanent 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 learned Sessions Court concerned;

The Authorities 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 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.

K. S. DARJI

(SAMIR J. DAVE,J)