

Gujarat High Court

Dana vs State on 8 September, 2011

Author: Z.K.Saiyed,

Gujarat High Court Case Information System

Print

CR.MA/12221/2011

3/ 3 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL
MISC.APPLICATION No. 12221 of 2011

=====

DANA
HIRA AHIR(DANGAR) - Applicant(s)

Versus

STATE
OF GUJARAT - Respondent(s)

=====

Appearance :
MR
SV RAJU FOR SV RAJU ASSOCIATES
for Applicant(s) : 1,
MR
MAULIK NANAVATI, LD. ADDL. PUBLIC PROSECUTOR for Respondent(s) :
1,
=====

CORAM

:

HONOURABLE

MR.JUSTICE Z.K.SAIYED

Date
: 08/09/2011

ORAL
ORDER

By way of present application, filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant has prayed to release him on regular bail in connection with CR No.I-38 of 2011 registered with Nakhatrana Police Station, Kachchh for the offence punishable under Sections 302, 365 and 34 of the Indian Penal Code.

Heard Mr.S.V. Raju, learned senior counsel for the applicant and Mr.Maulik Nanavati, learned Additional Public Prosecutor for respondent-State.

Mr.Raju, learned senior counsel for the applicant, has contended that the doctor has opined in the postmortem note that the deceased had died because of failure of cardio respiratory and not because of the injury sustained by the deceased. It also appears from the postmortem report that there is no serious injury caused to the deceased which can have any nexus with the death of the deceased. He has also read the statement of the witnesses and contended that looking to the facts of the case and overall circumstances, applicant may kindly be released on bail.

Mr.Maulik Nanavati, learned Additional Public Prosecutor, has vehemently opposed the present application and contended that the applicant is involved in a serious offence. Even prima-facie case is made out against the applicant.

In the facts and circumstances of the case and considering the nature of allegations and role attributed to the applicant and now the charge-sheet is filed, without entering into the merits of the case, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the applicant on bail.

Hence, the applicant is ordered to be released on bail in connection with CR No.I-38 of 2011 registered with Nakhatrana Police Station, Kachchh, for the offence alleged against him in this application on his executing a bond of Rs.10,000/- (Rupees ten thousand only) with one solvent surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall -

- a) not take undue advantage of his liberty or abuse his liberty;
- b) not to try to tamper or pressurise the prosecution witnesses or complainant in any manner;
- c) maintain law and order and should cooperate the Investigating Officer;

- d) not act in a manner injurious to the interest of the prosecution;
- e) not leave the State of Gujarat without prior permission of the Sessions Judge concerned;
- f) furnish the address of their 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) surrender their passport, if any, to the lower Court within a week.

If the breach of any of the above conditions is committed, the concerned Court will be free to issue warrant or take appropriate action in the matter.

Bail before the lower Court having jurisdiction to try the case. It would be open to the trial Court concerned to give time to furnish the solvency certificate if prayed for. Rule is made absolute.

Direct service is permitted.

(Z.

K. Saiyed, J) Anup Top