

Gujarat High Court

Suraj vs State on 11 August, 2008

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Gujarat High Court Case Information System

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CR.MA/1052220/2008 4/ 4 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL
MISC.APPLICATION No. 10522 of 2008

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SURAJ
@ SURESHBHAI MAVLABHAI SANSI & 1 - Applicant(s)

Versus

STATE
OF GUJARAT - Respondent(s)

=====

Appearance
:
MR
MA KHARADI for
Applicant(s) : 1 - 2.
MS ML SHAH APP for Respondent(s) :
1,
=====

CORAM

:

HONOURABLE

MR.JUSTICE H.B.ANTANI

Date
: 11/08/2008

ORAL
ORDER

1. RULE.

Ms.M.L. Shah, learned A.P.P. waives service of Rule on behalf of the State. In the facts and circumstances of the case and by consent of the learned advocates of both the sides, this application is taken up for hearing today.

2. This application is preferred under Section 439 of the Code of Criminal Procedure for regular bail in connection with FIR registered as CR.No.I 97 of 2008 with Dahod Town Police Station for the offences punishable under Sections 394 and 114 of the Indian Penal Code.

3. At the out set, Mr.M.A. Kharadi, learned advocate for the petitioners submitted that he does not press this application qua petitioner No.1. Learned advocate submitted that considering the role attributed to petitioner No.2, which is reflected in the F.I.R. at Annexure A to the petition, it is a fit case to enlarge petitioner No.2 on bail. The learned advocate also submitted that he would abide by the terms and conditions imposed by this Court while granting bail.

4. Ms.Shah, learned A.P.P., representing the State, submitted that taking into account the role attributed to petitioner No.2 and the manner in which the alleged offence is committed by him, prayer as set out in the petition does not call for any interference by this Court and the petition deserves to be rejected.

5. I have heard Mr.Kharadi, learned advocate for the petitioners and Ms.Shah, learned A.P.P. for the State at length and in great detail. I have also perused the averments made in the petition, the FIR produced along with the petition and the order passed by the learned Additional Sessions Judge and Presiding Officer, F.T.C., Dahod in Criminal Misc. Application No.428 of 2008 dated 18.07.2008 and the reasons assigned therein. The petitioner is booked for the offences punishable under Sections 394 and 114 of the Indian Penal Code. Considering the role attributed to petitioner No.2 in the commission of offence punishable under Sections 394 and 114 of the Indian Penal Code, the gravity of offence and quantum of punishment, I am inclined to exercise my discretion in favour of petitioner No.2, without entering into the merits of the case.

6. Considering the facts and circumstances of the case, the petition is partly allowed and petitioner No.2 is ordered to be enlarged on bail in connection with F.I.R. bearing CR.No.I 97 of 2008 registered at Dahod Town Police Station on executing a bond of Rs.10,000/- [Rupees ten thousand only] with one 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 act in a manner injurious to the interest of the prosecution;

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

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

[e] mark his presence at the concerned Police Station on any day of every first week of English calendar month between 9.00 AM and 2.00 PM. till the trial is over;

[f] furnish the present address of his residence to the I.O. and also to the Court at the time of execution of the bond and shall not change his residence without prior permission of this Court;

[g] maintain law and order.

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

8. Bail bond to be executed before the lower Court having jurisdiction to try the case.

9. 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 petitioner No.2 on bail.

Rule is discharged qua petitioner No.1.

Rule is made absolute qua petitioner No.2.

Direct Service is permitted.

[H.B.

ANTANI, J.] Hitesh Top