

Gujarat High Court

Appearance : vs Mr Kt Dave on 16 July, 2008

Author: H.B.Antani,&Nbsp

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CR.MA/9312/2008 4/ 4 ORDER

IN  
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL

MISC.APPLICATION No. 9312 of 2008

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CHAUHAN  
BHAMARSINH UJESINH & ANOTHER

Versus

STATE  
OF GUJARAT

=====

Appearance :  
MR  
DC SEJPAL for Applicants.  
MR KT DAVE, ADDL. PUBLIC PROSECUTOR for  
Respondent.

=====

CORAM

:

HONOURABLE

MR.JUSTICE H.B.ANTANI

Date  
: 16/07/2008

ORAL  
ORDER

RULE. Mr. K.T.

Dave, learned Additional Public Prosecutor waives service of rule on behalf of the respondent. At the request of the learned counsel appearing for the parties, this application is taken up for hearing today.

This application is filed under section 439 of the Code of Criminal Procedure in connection with First Information Report registered as C.R. No. I - 28 of 2008 filed before Chapi Police Station, for the offence punishable under sections 420, 120(b) and 511 of the Indian Penal Code.

Learned advocate representing the applicants submitted that taking into account the role attributed to the petitioners, it is a fit case to release the applicants on regular bail. Learned advocate submitted that the applicants have not actually committed any offence, and the allegation against the applicants are that they were planning to indulge in some illegal activities. Considering these facts, learned advocate submitted that the applicants may be released on regular bail.

As against the aforesaid submission, learned APP for the State submitted that taking into account the role attributed to the applicants, the applicants may not be released on regular bail. He further submitted that if the Court is inclined to release the applicants on regular bail, then stringent conditions may be imposed on them.

Taking into consideration the submissions canvassed by the learned advocates for both the sides and considering the averments made in the application as well as the FIR, it is a fit case, in my view, to grant regular bail to the applicants. It prima facie appears that the applicants have not actually committed any offence, and the allegation against the applicants are that they were planning to indulge in some illegal activities and no specific role is attributed to the applicants. Considering the above, I am of the view that the the applicants are required to be enlarged on regular bail at this stage, without discussing the evidence in detail.

The parties do not press for further reasoned order.

In the facts and circumstances of the case, the application is allowed and the applicants are ordered to be enlarged on bail in connection with C.R. No. I - 28 of 2008 filed before Chapi Police Station on executing a bond of Rs.10,000/- EACH [Rupees ten thousand only] with one surety EACH 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 their liberty or abuse their liberty;

[b]. not act in a manner injurious to the interest of the prosecution;

[c]. surrender their 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 their presence at Chapi 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 their residence to the I.O. and also to the Court at the time of execution of the bond and shall not change their residence without prior permission of this Court;

[g]. maintain law and order.

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.

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

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.

Rule is made absolute to the aforesaid extent.

Direct Service is permitted.

mathew  
J.]

[H.B.ANTANI,

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