

Gujarat High Court

Ashish vs State on 11 October, 2011

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Gujarat High Court Case Information System

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CR.MA/14118/2011

3/ 3 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL
MISC.APPLICATION No. 14118 of 2011

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ASHISH
ARMBABU SRIVASTAV - Applicant(s)

Versus

STATE
OF GUJARAT - Respondent(s)

=====

Appearance
:
MR
PRATIK B BAROT for Applicant(s) : 1,
MS CM SHAH ADDITIONAL PUBLIC
PROSECUTOR for Respondent(s) :
1,
=====

CORAM

:

HONOURABLE

MR.JUSTICE Z.K.SAIYED

Date
: 11/10/2011

ORAL
ORDER

1. Rule.

Learned APP Ms. C.M. Shah waives service of Rule on behalf of the respondent - State.

2. This is an application preferred under Section 439 of the Code of Criminal Procedure by the applicant who came to be arrested in connection with CR No. II- 3117 of 2011 registered at Prantij Police Station, for the offence punishable under Sections 25(1) (B) of the Arms Act.

3. Learned advocate for the applicant submitted that the applicant is an innocent person and he has been wrongly arraigned in the offence. He also submitted that the applicant was accused in other offence and recovery was made in those offences, and the muddamal recovered in those offence, appears to have been shown as recovery in present offence. Even the ingredients of the alleged offence are not established against the present applicant. He also submitted that co-accused has been enlarged on bail by this Court. Therefore, considering the parity ground, the applicant may kindly be released on bail by imposing suitable conditions.

4. Learned APP Ms. Shah for the State submitted that considering the seriousness of the offence, in which the applicant is involved, the application of the applicant is required to be rejected. Even from the papers including FIR, it appears that the applicant has played active role in the commission of the offence. Therefore, discretion may not be exercised in favour of the applicant.

5. Having considered the rival submissions and on perusal of the role attributed to the applicant as reflected in the FIR, police papers, provisions of Sections 25(1)(B) of the Arms Act and quantum of punishment, I am of the view that the applicant deserve to be enlarged on bail, as co-accused have been released by this Court. This court is not entering into the detail discussion of the evidence at this stage of bail.

6. In the facts and circumstances of the case, the application is allowed and the applicant is ordered to be enlarged on bail in connection with CR No. II-3117 of 2011 registered at Prantij Police Station, on his 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 last day of every English Calender month, at 11:00 a.m. 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 the applicant on bail.

10. Rule is made absolute to the aforesaid extent. Direct Service is permitted.

(Z.K.SAIYED,J.) ynvvas Top