

Gujarat High Court

Kanaiyalal vs State on 28 July, 2008

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Gujarat High Court Case Information System

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CR.MA/969420/2008

3/ 3 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL

MISC.APPLICATION No. 9694 of
2008

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KANAIYALAL
ALIAS KANUBHAI SHANKERLAL PATEL - Applicant(s)

Versus

STATE
OF GUJARAT - Respondent(s)

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Appearance :
MS
JAYSHREE C BHATT for Applicant(s) : 1,
MR HL
JANI, APP for Respondent(s) :
1,
=====

CORAM

:

HONOURABLE

MR.JUSTICE H.B.ANTANI

Date
: 28/07/2008
ORAL ORDER

1. RULE.

Mr HL Jani, learned Additional Public Prosecutor waives service of Rule for the State. In the facts and circumstances of the case and by consent of both the sides, this petition is taken up for hearing today.

2. This is an application preferred under Section 439 of the Code of Criminal Procedure in connection with FIR bearing CR No. I - 3 of 2008 registered at GIDC Vatva Police Station, Ahmedabad for the offences punishable under Sections 406, 409, 420, 421, 422 and 114 of the IPC.

3. Ms JC Bhatt, learned advocate for the petitioner submitted that the petitioner is an innocent person and he has been falsely involved in the commission of offences. The petitioner is a labourer and doing work of Diamond polishing at Surat and during the aforesaid period, he came in contact of Chairman of Ekta Co-operative Society. Thereafter, the Chairman of Ekta Co-operative Society and one Sandeep Champaklal Shah requested the present petitioner to open the savings account in his own Bank known as Ekta Co-operative Society. In view of the aforesaid situation, the petitioner believed in good faith and opened the account in the Bank. The learned Advocate for the petitioner submitted that huge misappropriation to the tune of Rs.78 lacs has taken place, but the petitioner is nowhere involved in the commission of offences and no overt act can be alleged against the petitioners so as to rope in the present petitioner in the commission of offences punishable under Sections 406, 409, 420, 421, 422 and 114 of the IPC. The learned advocate for the petitioner has placed reliance on the affidavit filed by Smt. Smitaben Kanaiyalal Patel and the documents produced along with the affidavit in support of the submission that the petitioner on bare perusal of the said annexures cannot be held liable for the offences alleged against him and in view of the aforesaid facts and circumstances, the petitioner may be released on regular bail as set out in the petition.

4. Mr HL Jani, learned Additional Public Prosecutor representing the State submitted that considering the FIR produced at Annexure-A to the petition and the role attributed to the present petitioner, he had put signatures in the various cheques which were issued on behalf of Ekta Co-operative Society. Those cheques to the tune of Rs.13,72,000/- were bounced and therefore, the petitioner was prima facie involved in the commission of offences alleged against him. Thus, considering the seriousness of the offences in which the petitioner is involved, the petition deserves to be rejected.

5. Having considered the rival submissions and on perusal of the averments made in the petition and the FIR at Annexure-A to the petition, the petitioner is booked for the offences punishable under Sections 406, 409, 420, 421, 422 and 114 of the IPC. The order passed by the learned Additional Sessions Judge in Criminal Misc. Application No.1789 of 2008 and the reasons assigned

by the learned Judge is perused by me. Considering the nature of the offences in which the petitioner is involved and the manner in which huge amount which is misappropriated, it is not a fit case to grant bail to the petitioner. The petitioner while working as a member of Ekta Co-operative Society had under his signature issued the cheques to the tune of Rs.13,72,000/- which is also revealed in the investigation. Those cheques were bounced and as the present petitioner is the main accused in the commission of offences alleged against him, the petitioner, in my considered view, cannot be enlarged on bail.

6. For the foregoing reasons, the petition is dismissed.

Rule is discharged.

(H.B.

Antani, J.) mrpandya* Top