

Gujarat High Court

Bhavesbhai vs State on 29 August, 2008

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Gujarat High Court Case Information System

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CR.MA/1090220/2008

3/ 3 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL

MISC.APPLICATION No. 10902 of 2008

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BHAVESHBHAI
NAGJIBHAI DESAI AND ANOTHER - Applicants

Versus

STATE
OF GUJARAT AND ANOTHER - Respondents

=====Appearance

:

MR PR NANAVATI for the
Applicants.

MR HL JANI, ADDITIONAL PUBLIC PROSECUTOR for

Respondent : 1.

MR HARSHAD PATEL for

Respondent : 2.

DS AFF.NOT FILED (N) for Respondent :

2.

=====

CORAM

:

HONOURABLE

MR.JUSTICE H.B.ANTANI

Date
: 29/08/2008

ORAL
ORDER

1. RULE.

Learned Additional Public Prosecutor Mr. H. L. Jani waives service of Rule on behalf of the respondent No. 1 State and learned Advocate Mr. Harshad Patel for respondent No. 2. In the facts and circumstances of the case, the matter is taken up for hearing today.

2. This is an application preferred under Section 439 of the Code of Criminal Procedure seeking regular bail of the petitioner in connection with FIR registered as C. R. No. I-63 of 2008 filed at Modasa Police Station for the offences punishable under Sections 406, 420, 408 and 114 of the Indian Penal Code.

3. Learned Advocate Mr. P. R. Nanavati for the petitioner submits that considering the role played by the petitioner, which is reflected in FIR at Annexure-A to the petition, he requires to be released on bail. The learned Advocate submitted that if the prayer, as set out in the application, is granted, then he would abide by the terms and conditions imposed by this Court.

4. Learned Additional Public Prosecutor Ms. Manisha L. Shah representing the respondent-State, opposing the bail application, submitted that the considering the role played by the petitioner and the manner in which the offences punishable under Sections 406, 420, 408 and 114 of the Indian Penal Code are committed, no interference is called for and the bail application deserves to be dismissed.

5. I have heard the learned Counsel representing both the sides and considering the role played by the petitioner and the manner in which the alleged offences are committed by the petitioner, I am inclined to exercise my discretion in favour of the petitioner without entering into the merits of the case.

6. For the foregoing reasons, the petition is allowed. The petitioner is ordered to be enlarged on bail in connection with FIR registered as C. R. No. I-63 of 2008 filed at Modasa Police Station for the offences punishable under Sections 406, 420, 408 and 114 of the Indian Penal Code 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 Modasa 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 Investigating Officer 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; and, [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 petitioner on bail.

10. Rule is made absolute. Direct Service is permitted.

[H.

B. ANTANI, J.] /shamnath Top