

Gujarat High Court

Maheboob vs State on 12 May, 2010

Author: A.L.Dave,&Nbsp

Gujarat High Court Case Information System

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CR.MA/4534/2010 3/ 3 ORDER

IN  
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL

MISC.APPLICATION No. 4534 of 2010

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MAHEBOOB

GANI KATARIA - Applicant(s)

Versus

STATE

OF GUJARAT - Respondent(s)

=====

Appearance

:

MR

PP MAJMUDAR for

Applicant(s) : 1,

MR HH PARIKH ADDL. PUBLIC PROSECUTOR for

Respondent(s) :

1,

=====

CORAM

:

HONOURABLE

MR.JUSTICE A.L.DAVE

Date  
: 12/05/2010

ORAL ORDER

Heard learned advocate Mr Majmudar for the applicant, learned APP Mr Parikh for the respondent-State and learned advocate Mr Hriday Buch, who appears for the complainant through the learned APP.

2. The applicant had earlier applied for bail by preferring Criminal Misc. Application No.569 of 2010 which was withdrawn by him on 1.2.2010.

3. Now, the applicant is relying on the order dated 16.4.2010 passed in Criminal Misc. Application No.756 of 2010 whereby co-accused, Nuruddin Rajabali Chavda, came to be admitted to bail by this Court.

4. Learned advocate for the applicant submitted that the role of Nuruddin and the present applicant is identical, as is revealed from the investigation papers and, therefore, the applicant is entitled to bail on the ground of parity.

5. The application is opposed to on the ground that though the role of the applicant may appear to be similar to that of Nuruddin, his subsequent conduct of abscondence would differentiate his case from the case of Nuruddin. The proceedings under Section 70 of Cr. PC were required to be initiated and only thereafter the applicant surrendered. It is indicated that though the applicant was indicated to be not in town, the details collected from mobile phone service provider indicates that the applicant's phone was within the vicinity of the area where the incident occurred. The applicant has hatched a conspiracy and, last but not the least, it is indicated that the trial is now fixed for hearing on 19.5.2010.

6. Having regard to the rival side submissions, this Court is of the view that though the role of the applicant is similar to that of co-accused Nuruddin, his conduct would also be relevant for considering the question of bail. If he has absconded once prior to his surrender, possibility of his abscondence subsequently, cannot be ruled out, particularly when the trial is fixed and, in such an eventuality, it may obstruct the process of law. It was indicated by the learned advocate for the applicant that the applicant was granted temporary bail for two days subsequent to his withdrawal of the application and he surrendered in time. This is countered by the other side that the applicant was not granted temporary bail, but he was sent under police escort. In such an eventuality, this Court is of the view that the applicant's case does not merit acceptance on the ground of parity.

Stands rejected. Rule is discharged.

(A.L.

DAVE, J.) zgs/-

Top