

Gujarat High Court

Chikabhai vs State on 12 August, 2008

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Gujarat High Court Case Information System

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CR.MA/1058220/2008 3/ 3 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL
MISC.APPLICATION No. 10582 of
2008

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CHIKABHAI
BAPUBHAI DAYARA KOLI - Applicant(s)

Versus

STATE
OF GUJARAT - Respondent(s)

=====

Appearance :
MR
DEVENDRA K RATHOD for Applicant(s) : 1,MR
JOITABHAI N PATEL for Applicant(s) : 1,
MS MANISHA SHAH, APP for
Respondent(s) : 1,
=====

CORAM

:

HONOURABLE

MR.JUSTICE H.B.ANTANI

Date
: 12/08/2008
ORAL ORDER

1. RULE.

Ms Manisha Shah, learned Additional Public Prosecutor waives service of Rule on behalf of the State. In the facts and circumstances of the case and by consent of both the sides, this application is taken up for hearing today.

2. This application is preferred under Section 439 of the Code of Criminal Procedure for regular bail in connection with Prohibition CR No. 66 of 2008 registered with Devgadhi Baria Police Station for the offences punishable under Sections 66B, 65A-E and 81 of the Prohibition Act.

3. Learned advocate for the petitioner submitted that the petitioner is an innocent person and false case is foisted on him. The learned advocate for the petitioner submitted that considering the role played by the petitioner which is reflected in the FIR at Annexure-A to the petition, it is a fit case to enlarge the petitioner on bail.

4. Ms Manisha Shah, learned Additional Public Prosecutor representing the State submitted that taking into account the role attributed to the petitioner which is reflected in the FIR at Annexure-A to the petition, the petitioner is booked for the offences punishable under Sections 66B, 65A-E and 81 of the Prohibition Act. Considering the nature of involvement of the petitioner, the petition deserves to be dismissed.

5. I have heard learned advocate for the petitioner and learned Additional Public Prosecutor for the State at length and in great detail. The averments made in the petition have been carefully perused by me. The FIR at Annexure-A to the petition and the role attributed to the petitioner is also taken into consideration by me. In view of the above, without entering into merits of the case, I am inclined to exercise my discretion in favour of the petitioner.

6. In the facts and circumstances of the case, the petition is allowed and the petitioner is ordered to be enlarged on bail in connection with Prohibition CR No. 66 of 2008 registered at Devgadhi Baria Police Station 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 the concerned 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 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 petitioner on bail.

10. Rule is made absolute to the aforesaid extent.

Direct Service is permitted.

[H.B.

Antani, J.] mrpandya* Top