

Prakash Ramchandra Brahmbhatt (Barot) vs State Of Gujarat on 6 September, 2019

Author: A.Y. Kogje

Bench: A.Y. Kogje

R/CR.MA/15010/2019

ORDER

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 15010 of 2019

With

R/CRIMINAL MISC.APPLICATION NO. 15092 of 2019

=====

PRAKASH RAMCHANDRA BRAHMBHATT (BAROT)

Versus

STATE OF GUJARAT

=====

Appearance:

MR CHINMAY M GANDHI(3979) for the Applicant(s) No. 1

MR MB GANDHI(326) for the Applicant(s) No. 1

MR PRAVIN GONDALIYA(1974) for the Respondent(s) No. 1

MS SHRUTI PATHAK, ADDITIONAL PUBLIC PROSECUTOR(2) for the
Respondent(s) No. 1

=====

CORAM: HONOURABLE MR.JUSTICE A.Y. KOGJE

Date : 06/09/2019

COMMON ORAL ORDER

1. RULE. Learned Additional Public Prosecutor waives service of Rule on behalf of the respondent-State.

2. The above applications are filed by the applicants under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR registered as C.R. No.I-55/2019 with Santej Police Station, Gandhinagar for the offences punishable under Sections 465, 467, 468, 471 and 120(B) of the Indian Penal Code.

3. Learned Advocate appearing on behalf of the applicants submits that considering the nature of offence, the applicants may be enlarged on regular bail by imposing suitable conditions.

R/CR.MA/15010/2019 ORDER

4. On the other hand, the learned Additional Public Prosecutor appearing for the respondent-State has opposed grant of regular bail and submitted that during the course of investigation, it is found that the documents produced before the Electricity Company for receiving the electric connection are forged and therefore, prima-facie an offence is committed.

5. Learned Advocate for the original complainant submitted that the conduct of the applicants be considered as they have tried to create a defence by indulging into an illegal act of recording conversation with one - Gaurav Patel and making an application of such a person to mislead the entire investigation.

6. Learned Advocates appearing on behalf of the respective parties do not press for a further reasoned order.

7. I have heard the learned Advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered :-

I) The First Information Report is registered on 26.07.2019 for the offence which is alleged to have taken place on 02.11.2018; II) The applicants are in custody since 26.07.2019; III) The investigation qua the applicants has concluded as the remand period is over;

IV) The submission of learned Advocate for the applicants that the offence is of a civil nature and the civil dispute in connection with R/CR.MA/15010/2019 ORDER the disputed land filed by the applicants is decreed and the Appeal against it is pending;

V) A similar First Information Report registered earlier by the very complainant against the applicants of a similar nature has been quashed by this Court and the SLP against quashing filed by the complainant is rejected by the Apex Court. Moreover, the criminal complaint filed by the applicants' side against the present complainant's side quashing petition by complainant herein has been rejected by a detailed order of this Court and; VI) Learned Additional Public Prosecutor under the instructions of the Investigating Officer is unable to bring on record any special circumstances against the applicants.

VII) Coaccused in this offence is enlarged on anticipatory bail by Co-ordinate Bench.

This Court has taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra v. Central Bureau of Investigation reported in [2012] 1 SCC 40.

8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicants in the First Information Report, without discussing the evidence in detail, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge

the applicants on regular bail.

9. Hence, the present application are allowed. The applicants are ordered to be released on regular bail in connection with C.R. R/CR.MA/15010/2019 ORDER No.I-55/2019 with Santej Police Station, Gandhinagar on executing a personal bond of Rs.10,000/= (Rupees Ten Thousand Only) EACH with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that they shall;

(a) not take undue advantage of liberty or misuse liberty;

(b) not act in a manner injurious to the interest of the prosecution;

(c) surrender passport, if any, to the lower Court within a week;

(d) not leave the State of Gujarat without prior permission of the Sessions Judge concerned;

(e) mark presence before the concerned Police Station ONCE in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) furnish the present address of their residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;

10.The authorities will release the applicants only if they are not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.

11.Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with R/CR.MA/15010/2019 ORDER law.

12.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 applicants on bail.

13.The applications are allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct Service is permitted.

Sd/-

(A.Y. KOGJE, J) Caroline