

Maheshkumar Shantilal Akhani vs State Of Gujarat on 14 October, 2024

R/CR.MA/19675/2024

ORDER

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 19675
of 2024

MAHESHKUMAR SHANTILAL AKHANI

Versus

STATE OF GUJARAT

Appearance:

MR VIRAT G POPAT(3710) for the Applicant(s) No. 1

MR MOHDDANISH M BAREJIA(10612) for the Respondent(s) No. 1

MR TRUPESH KATHERIYA, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 14/10/2024

ORAL ORDER

1. RULE. Learned APP waives service of rule for the respondent-State.
2. By way of the present application under Section 482 of the Bhartiya Nagrik Suraksha Sanhit, 2023, the applicant- accused has prayed for enlarging the applicant on anticipatory bail in connection with the FIR be i ng C.R.NO. 11192061240397 of 2024 registered with Viramgam Town Police Station, Ahmedabad .
3. Heard learned advocate for the applicant and learned APP for the respondent - State.
4. Learned advocate for the applicant has submitted that the applicant is apprehending arrest in connection the aforesaid FIR and in this connection the earlier application filed by the NEUTRAL CITATION R/CR.MA/19675/2024 ORDER DATED: 14/10/2024 undefined applicant before the

learned Sessions Court came to be dis- allowed.

5. Learned APP appearing on behalf of the respondent- State has opposed grant of regular bail, inter alia, contending that the present applicant has circulated a video of the hospital of the first informant, wherein a surgery was being performed by the Compounder of the hospital of the first informant with an intention to defame the first informant and an attempt was made to extort the money from the first informant. He, therefore, submitted to dismiss the present application.

6. Learned advocate for the original complainant has opposed the present application, inter alia, contending that with the help of a video footage, the present applicant had made an attempt to extort money from the first informant. He, therefore, submitted to dismiss the present application.

7. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. The role attributed to the present applicant in commission of offence in question is to the effect that the present applicant was having a video footage in his mobile-phone of the hospital of the first informant, wherein the compounder of the hospital of the first informant was seen performing a surgery over the patient, who subsequently had died and it is alleged that the present applicant had circulated the said video footage to the other co- accused, who on the basis of the same, had demanded a ransom amount from the first informant. It is not even the case of the prosecution that the amount of ransom had been demanded by NEUTRAL CITATION R/CR.MA/19675/2024 ORDER DATED: 14/10/2024 undefined the present applicant.

8. This Court has considered following aspects,

(a) as per catena of decisions of Hon'ble Supreme Court there are mainly two factors which are required to be considered by this court;

- (i) prima facie case
- (ii) requirement of accused for custodial i

Therefore, in the facts and circumstances of the present case, this court is inclined to consider the case of the applicant.

9. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Ors., reported at [2011] 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of Shri Gurubaksh Singh Sibbia & Ors. Vs. State of Punjab, reported at (1980) 2 SCC 565. Further, this Court has also taken into consideration the ratio laid down in the case of Sushila Aggarwal and Ors. v. State (NCT of Delhi) and Anr. in Special Leave Petition No. 7281-7282/2017 dated 29.01.2020.

9.1 This court has also considered the judgment in the case of Arnesh Kumar v. State of Bihar reported in (2014) 8 SCC 273, wherein the Hon'ble Apex Court has observe that whenever there is punishment of 7 years, then the court would be liberal to exercise the discretion. Further, by

exercising the NEUTRAL CITATION R/CR.MA/19675/2024 ORDER DATED: 14/10/2024 undefined discretion under Section 438 Cr.P.C, the doors of remand by the Investigating Officer is open and therefore also this court is inclined to exercise powers under Section 438 of Cr.P.C.

10. In the result, the present application is allowed. The applicant is ordered to be released on anticipatory bail in the event of arrest in connection with a F I R be i n g No . C . R . N O . 11192061240397 of 2024 registered with V i r a m g a m T o w n P o l i c e S t a t i o n , A h m e d a b a d on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of like amount on the following conditions;

- (a) shall cooperate with the investigation and make available for interrogation whenever required;
- (b) shall remain present at concerned Police Station on 1 8 . 1 1 . 2 0 2 4 between 12.00 Noon and 2.00 p.m.;
- (c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- (d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- (e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change residence till the final disposal of the case till further NEUTRAL CITATION R/CR.MA/19675/2024 ORDER DATED: 14/10/2024 undefined orders;
- (f) shall not leave India without the permission of the concerned trial court and if having passport shall deposit the same before the concerned trial court within a week; and

11. At the trial, the concerned trial court shall not be influenced by the prima facie observations made by this Court in the present order.

12. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(M. R. MENGDEY,J) GIRISH