

Aekanbhai Rupabhai @ Rupsinghbhai ... vs State Of Gujarat on 25 June, 2021

Author: Umesh A. Trivedi

Bench: Umesh A. Trivedi

R/CR.MA/9343/2021

ORDER DATED: 25/06/2021

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO.

9343 of 2021

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AEKANBHAI RUPABHAI @ RUPSINGHBHAI DINDOR
Versus
STATE OF GUJARAT

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Appearance:

MR RUTURAJ NANAVALI(5624) for the Applicant(s) No. 1
MR. CHINTAN DAVE, ADDL. PUBLIC PROSECUTOR(2) for the
Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE UMESH A. TRIVEDI

Date : 25/06/2021

ORAL ORDER

1. The present successive application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being No.11821002210019 of 2021 registered with Sanjeli Police Station, Dahod, for the offence under Sections 457, 380, 395 and 114 of the Indian Penal Code.

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

3. Learned APP appearing on behalf of the respondent-

State has opposed grant of regular bail looking to the nature and gravity of the offence.

4. Learned Advocates appearing on behalf of the R/CR.MA/9343/2021 ORDER DATED: 25/06/2021 respective parties do not press for further reasoned order.

5. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

6. Following aspects are considered:

(a) Investigation is over and charge-sheet is filed;

(b) Over and above the offence under Sections 457 and 380, during the course of investigation, an offence under Sections 395 and 120(B) of IPC came to be added to the FIR and report to that effect is made to the concerned Court;

(c) Out of an amount alleged to have been looted in cash of Rs.1,85,000/- including ornaments, out of Rs.9000/- which had come to his share, there is a recovery of amount in cash to the tune of Rs.6200/- only from the present applicant;

(d) There is no other material which may implicate the applicant into the offence.

(e) Considering the order passed by the learned Sessions Judge, it is clear that for rejecting an application for bail, statement of accused and / or co-accused has been R/CR.MA/9343/2021 ORDER DATED: 25/06/2021 relied on even concluding that amount which is recovered from him forming part of amount went in robbery, no such statement could have been relied, prima-facie, even for rejecting an application for bail, that too, after submission of charge-sheet.

(f) As such, there is no criminal antecedent of the petitioner, as submitted by the learned advocate for the applicant - accused, which is also confirmed by the learned APP Mr. Chintan Dave, even from the affidavit filed by the Investigating Officer in the Trial Court.

In the facts and circumstances of the present case, I am inclined to consider the case of the applicant.

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

8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being No.11821002210019 of 2021 registered with Sanjeli Police Station, Dahod, on executing a personal 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;

R/CR.MA/9343/2021 ORDER DATED: 25/06/2021 [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 India without prior permission of the concerned trial court;

[e] furnish the present address of 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 the concerned trial court;

9. The authorities will release the applicant only if he is 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. 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 law.

10. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

11. Rule is made absolute to the aforesaid extent.

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12. Registry is directed to send the copy of this order to the concerned Court, concerned Jail Authority immediately through E-mail.

(UMESH A. TRIVEDI, J) Lalji Desai