

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 32 of 2024**

=====

TUSHAR MAGANBHAI SUVAN

Versus

STATE OF GUJARAT

=====

Appearance:

MR. MAULIK M SONI(7249) for the Applicant(s) No. 1,2
MR L B DABHI, APP for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 04/01/2024

ORAL ORDER

1. **RULE.** Learned APP waives service of rule for the respondent-State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being **C.R.NO. 11821014230528 of 2023 registered with Dhanpur Police Station, Dahod.**
3. Learned advocate for the applicants does not press the present application qua applicant no.1.
4. The present application stands disposed of qua present applicant no.1, as not pressed. Rule is discharged qua applicant no.1.

5. Learned Advocate appearing on behalf of the applicants submits that considering the nature of the offence, the applicant no.2 may be enlarged on regular bail by imposing suitable conditions. He has submitted that there is one antecedent qua present applicant no.2 wherein the applicant no.2 has been ordered to be acquitted. He, therefore, submitted to allow the present application and enlarge the present applicant no.2 on bail subject to suitable conditions.

6. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

7. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. This Court has considered the seriousness of the offence and the allegations levelled against the present applicant no.2. This Court has also considered the fact that present applicant no.2 has been ordered to be acquitted in the other offence.

8. This Court has also 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.

9. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant no.2 in the FIR, 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 applicant no.2 on regular bail.

10. Hence, the present application is allowed. The **applicant no.2** is ordered to be released on regular bail in connection with FIR being **C.R.NO. 11821014230528 of 2023 registered with Dhanpur 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;

- (a) not take undue advantage of liberty or misuse liberty;
- (b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not leave the State of Gujarat without prior permission of the Trial Court 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 his 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 Trial Court;

11. The authorities will release the applicant no.2 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.

12. 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.

13. 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 applicant no.2 on bail.

14. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(M. R. MENGDEY,J)

GIRISH