

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 22270 of 2023**

MUKESHKUMAR @ KRISHNA @ MOTA S/O BHAVANSING DHANUK
Versus
STATE OF GUJARAT

Appearance:
ARTI MADANGOPAL RAJPUT(8254) for the Applicant(s) No. 1,2
MR SANJAY PRAJAPATI(3227) for the Applicant(s) No. 1,2
for the Respondent(s) No. 2,3
MS MAITHILI MEHTA, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 02/01/2024

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. 11191048211683 of 2021 registered with Sarkhej Police Station, Ahmedabad.**
3. Learned Advocate appearing on behalf of the applicants submits that considering the nature of the offence, the applicants may be enlarged on regular bail by imposing suitable conditions.
4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. She has submitted that the applicant had

discovered a weapon, which was used in commission of offence in question whereupon the bloodstains of the deceased were found, which had matched also. She also submitted that call details record shows the location of the present applicant at the scene of offence at the time of incident. She, therefore, submitted to dismiss the present application.

5. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. In present case, the investigation is over and charge-sheet has been filed. The case of prosecution rests upon circumstantial evidence and the only material connect the present application with the offence in question is to the effect that that the applicant had discovered a knife which was allegedly used in commission of offence in question. However, the said discovery has been effected on 27.08.2021, whereas the offence has taken place on 05.08.2021. Thus, there is a considerable delay in executing the discovery panchmana.

6. 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.

7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicants 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 on regular bail.

8. Hence, the present application is allowed. The applicants are ordered to be released on regular bail in connection with FIR being **C.R.NO. 11191048211683 of 2021 registered with Sarkhej Police Station, Ahmedabad**, 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 & 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 their residences 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;

9. 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.

10. 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.
11. 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.
12. Rule is made absolute to the aforesaid extent.
Direct service is permitted.

(M. R. MENGDEY,J)

GIRISH