IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 22688 of 2019

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HANIF BABUDDIN QURESHI

Versus

STATE OF GUJARAT

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Appearance:
MR SS SAIYED(3690) for the Applicant(s) No. 1
MR LB DABHI, APP for the Respondent(s) No. 1
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CORAM: **HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI**

Date : 31/01/2020

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 **C.R.No.I-170 of 2012 registered with Kalol Police Station, District Panchmahal** for offence under Sections 365, 368, 395, 328, 342, 506(2), 120B and 34 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 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. This Court has considered following aspects,

(a) applicant is in jail since 08.04.2013;

(b) investigation is concluded and charge-sheet is filed long back;

(c) this successive bail application is filed by the applicant on the ground of delay in commencing the trial. It is submitted that applicant filed an application in the year 2015 before this Court. The said application was withdrawn. Copy of the said order is placed on record at page 36.

(d) it is further submitted that co-accused Bablu Idu Kureshi filed an application before this Court and on 06.09.2019 the said application came to be allowed by this Court on the ground that there is no progress in the trial and 23 witnesses are yet to be examined.

(e) The said accused was in jail since September, 2014, whereas the present applicant is in jail since April 2013. It is, therefore, urged that on the ground of parity, case of the applicant be considered;

(f) I have considered the submissions canvassed by learned advocate for the applicant. I have

also perused the material placed on record including the order dated 06.09.2019 passed by this Court in the case of co-accused. I have also considered the fact that till date trial is not concluded and the applicant is in jail since 08.04.2013.

Looking to the overall 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 **C.R.No.I-170 of 2012 registered with Kalol Police Station, District Panchmahal** 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;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave the territorial limit of Gujarat State without prior permission of the concerned trial court;

[e] mark presence before the concerned Police

Station between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] 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;

[g] shall regularly remain present before 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.

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

(VIPUL M. PANCHOLI, J)

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