IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 1344 of 2024

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MEHUL @ MEHUR RATABHAI MUNDHAVA

Versus

STATE OF GUJARAT

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Appearance:
MR N P PANDYA(11241) for the Applicant(s) No. 1
MR. CHINTAN DAVE, LD. ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

Date : 22/01/2024

ORAL ORDER

1. Rule returnable forthwith. Learned APP waives service of notice of rule for and on behalf of 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 the FIR being C.R. No.11208044240003 of 2024 registered with the Pradhyumannagar Police Station, Rajkot of the offence punishable under Sections 364(A) of the IPC.

3. Learned advocate appearing for the applicant has submitted that the applicant-accused was arrested on 04.01.2024 and since then he is in jail. Learned advocate for the applicant has also submitted that the investigation is in progress. Learned advocate for the applicant has submitted that the only role attributed to the applicant-accused is that he aided the main accused in the commission of the crime by

taking the injured victim at the native of the main accused, i.e,. at village Kherva in his auto rickshaw. It is moreso submitted that the present applicant-accused has not inflicted any blow to the injured. Further, the applicant-accused does not have any past antecedents. Under the circumstances, learned advocate for the applicant prays that the applicant may be enlarged on bail on any suitable terms and conditions.

4. The learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. Learned APP has submitted that considering the role attributed to the applicant-accused, this is a fit case wherein discretionary power of this Court is not required to be exercised in favour of the applicant-accused.

5. The learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. This Court has also considered the following aspects;

a) That the applicant-accused is in jail since 04.01.2024;

b) That the applicant-accused is merely a rickshaw driver, in whose rickshaw, the injured victim was taken at the native of the main accused;

c) That the applicant-accused has not given any blow to the injured victim;

d) That the applicant-accused does not have any past

antecedents;

7. 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.

8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant 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.

9. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.11208044240003 of 2024 registered with the Pradhyumannagar Police Station, Rajkot, on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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 injuries to the interest of the prosecution;

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

[d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on alternate Monday 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 this Court;

10. 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.

11. 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.

12. 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 on bail. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(DIVYESH A. JOSHI,J)

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