

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION NO. 2622 of 2024
(FOR REGULAR BAIL - AFTER CHARGESHEET)**

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RAJU RAMLAKHAN PRAJAPATI

Versus

STATE OF GUJARAT

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Appearance:

MR BB NAIK, Sr. Adv. with MR EKANT G AHUJA(5323) for
the Applicant(s) No. 1

MS JIRGA JHAVERI APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 16/02/2024

ORAL ORDER

1. Rule. Learned APP waives service of notice of rule for respondent – State of Gujarat.
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.I-112/2012 registered with the Nadiad Rural Police Station for the offence punishable under Sections 302, 120(B) and 34 of the Indian Penal Code.
3. Learned advocate for the applicant submitted that the so-called incident has taken place on 31.07.2012, for which, the FIR has been lodged on the very same day i.e. on 31.07.2012 and the applicant has been arrested in connection with the same on 15.03.2023 and since then, he is in judicial custody. Learned advocate submitted that

now the investigation is completed and after submission of the chargesheet, the present application is preferred. Learned advocate submitted that FIR has been lodged against unknown persons, however during the course of investigation, on the strength of the confessional statement made by the co-accused before Police Station at Vatva, the original accused no.1, Hitesh was taken into custody by the Investigating Officer of Nadiad Police Station and on the strength of the confessional statement made by the said accused, investigation was carried out in a particular direction and during the course of investigation, the name of the present applicant has come on surface. Learned advocate submitted that the accused, Hardik Shukla, who was earlier arrested and chargesheeted, has been discharged by the concerned court, however against the said order of discharge, Criminal Revision Application is preferred before this Court, which is pending for final adjudication. Learned advocate submitted that so far as the accused, Hitesh, who has inflicted blows on the body of the deceased at the relevant point of time, is concerned, the said co-accused has been considered by the Coordinate Bench of this Court. Learned advocate submitted that as per the case of the prosecution, the present applicant – accused has caught hold of the deceased at the time of incident. Learned advocate further submitted that entire case hinges upon

circumstantial evidence and all the documents collected by the IO would not prima facie prove the guilt of the applicant – accused. It is, therefore, urged that considering the nature of the offence and on the principle of law of parity, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Learned APP for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is submitted that the role of the present applicant is clearly spelt out from the papers of the chargesheet. Learned advocate submitted that the incident has occurred in the year 2012 and the present applicant – accused has been arrested in the year 2023 and thus, the present applicant has evaded his arrest at the instance of the IO. Learned APP submitted that in the alleged commission of crime, there is involvement of the applicant and, hence, the present application may not be entertained.
5. 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. It is found out from the record that the present application is preferred after submission of the chargesheet and

now the investigation is completed and the applicant is in jail since 15.03.2023. It is found out that the applicant is not named in the FIR, however only on the strength of the statement of the co-accused, the applicant is arraigned as accused. I have considered the role attributed to the present applicant and the co-accused, Hitesh, who is attributed role of inflicting blow on the body of the deceased, who has also been considered by the Coordinate Bench of this Court as well as the role attributed to the co-accused, Hardik Shukla, who has been discharged by the concerned court. The case of the prosecution hinges upon circumstantial evidence. Therefore considering the above factual aspects and on the ground of parity, the present application deserves to be allowed.

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 as well as in case of **Satender Kumar Antil v. Central Bureau of Investigation & Anr.** reported in (2022) 10 SCC 51.
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. The applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.I-112/2012 registered with the Nadiad Rural Police Station 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 injurious 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 concerned

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.

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 applicant on bail.
12. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(DIVYESH A. JOSHI, J.)

Gautam