

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 13281 of 2023**

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SIPAHI REHMAN SARVARKHAN

Versus

STATE OF GUJARAT

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Appearance:

MR VISHAL N SOLANKI(11628) for the Applicant(s) No. 1

MS CHETNA SHAH, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA****Date : 26/02/2024****ORAL ORDER**

1. This successive bail application is filed under Section 439 of Cr.P.C., 1973 in connection with the FIR being C.R. No.11217006220255 of 2022 registered with Chanasma Police Station, Dist: Patan for the offences punishable under Sections 302, 294(b), 506(2) and 114 of the Indian Penal Code and Section 135 of the Gujarat Police Act.

2. Facts and circumstances giving rise to filing of present application are that, on 06.03.2022, the accused no.1-Sipai Shahejadkhan was scolded by witness Patel Kundankumar as he was driving his bike endangering the life of passer bye and he was slapped by witness Mr. Patel, as a result of which, he told the incident to his family and aggrieved with the said incident, the accused Shahejadkhan and Rahemankhan came at the scene of

offence where the verbal part took place between the parties. The present applicant namely Raheman gave his knife to accused no.1 and told him to inflict a knife blow on the witness Kundan Patel and while inflicting the knife blow, the deceased Bhudarbhai intervened to resolve the matter and in that process, the accused no.1 caused fatal injuries by knife to him and he succumbed to the injuries. The FIR for the said incident came to be filed by the eye witness and after completion of investigation, the applicant and accused no.1 have been chargesheeted for the aforesaid offences and same has been committed to the Court of Sessions.

3. When the matter was called out, learned counsel Mr. Solanki appearing for the applicant has chosen not to remain present before this Court. The present bail application is filed on 06.07.2023. The matter was posted for hearing on 17.08.2023 and thereafter on 29.11.2023 as the learned counsel for the applicant sought time to take necessary instructions. On 10.01.2024, learned counsel for the applicant did not turn up for hearing. The learned Additional Public Prosecutor Ms. C.M. Shah tendered a police report, containing therein the facts of stage and progress of trial. The Sessions Case No.11 of 2022 is at the stage of recording further evidence of witnesses.

4. In the aforesaid facts, considering the contentions

raised in the application and the role attributed to the present applicant, *prima-facie*, offence is made out against the applicant herein. The trial is at the midway.

5. Thus, therefore, on merits there is no any change in fact situation after withdrawal of earlier bail application which has been withdrawn on 21.09.2022.

6. Therefore, this application stands dismissed. Rule is discharged. However, in case if there is a change in fact situation, the applicant has liberty to renew his prayer for bail before the trial Court as well as this Court.

TAUSIF SAIYED

(ILESH J. VORA,J)