IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL - AFTER CHARGESHEET) NO. 14643 of 2024

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THAKOR DIGVIJAY POPATJI & ANR.

Versus

STATE OF GUJARAT

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Appearance:
MR VIJAY U THAKOR(12262) for the applicants(s) No. 1,2
MR. SHIVAM N THAKKAR(10024) for the applicants(s) No. 1,2
MR HARDIK DAVE, PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE M. R. MENGDEY**

Date : 05/08/2024

ORAL ORDER

1. **Rule.** Learned APP waives service of notice of Rule on behalf of respondent-State.

2. This application is filed under Section 439 of the Criminal Procedure Code, 1973 for regular bail in connection with **F.I.R. No.11206073240298 of 2024 registered with Vadnagar Police Station, District Mahesana.**

3. Learned advocate for the applicants submits that considering the nature of offence and role attributed to the applicants, the applicants may be enlarged on regular bail by imposing suitable conditions.

4. The learned PP appearing for the respondent State vehemently submits that the present applicants had played an active role in commission of offence in question as the present applicant no.1 used to make telephone calls to the victim and allured them for handsome returns on investment in the stock market. The sim cards with the use of said phone calls were made had been provided by the present applicant no.2 to the present applicant no.1. Learned PP, therefore, submits that the offences which have been charged, are serious in nature and looking to the facts as well as the allegations levelled against the applicants, no discretion is required to be exercised.

5. I have heard learned advocates appearing for the parties and perused the material available on record. From the record it appears that the investigation is over and Charge-sheet has already been filed. It is alleged against the applicants that the applicant no.1 used to make telephone calls to the victim and allured them for handsome returns on investment in the stock market

and sim cards for making such telephone called had been provided by the present applicant no.2 to present applicant no.1. The total amount involved in the scam is worth Rs.17 Lakhs. Having regard to the same and so also the fact that the said amount had not gone into the accounts of present applicants, the present application deserves to be allowed.

6. This court has also considered the following aspects:

(a) As per catena of decisions of Hon'ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. *prima facie* case, availability of applicants accused at the time of trial and tampering and hampering with the witnesses by the accused.

(b) That the learned Advocate for the applicants has submitted that the applicants Accused are not likely to flee away.

(c) That the applicants are in custody since 17.05.2024.

(d) The law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v.**

C.B.I. Reported in (2012) 1 SCC 40.

7. In the facts and circumstances of the case and considering the nature of allegations made in the FIR and without discussing the evidence in details as well as without going into details, *prima-facie*, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the applicants on bail. Hence, the application is allowed and the applicants are ordered to be released on bail in connection with the aforesaid FIR, on executing a bond of **Rs.10,000/-(EACH)** with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that;

(a) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

(b) shall maintain law and order and not to indulge in any criminal activities.

(c) shall furnish the documentary proof of complete, correct and present address

of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change residence without prior permission of the trial Court.

(d) shall provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the trial Court.

(e) shall file an affidavit stating immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any.

(f) shall not leave India without prior permission of the Trial Court

(g) surrender passport, if any, to the Trial Court within a week. If accused does not possess passport, shall file an Affidavit to that effect.

8. The authorities concerned shall 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. 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.

9. At the trial, the concerned trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order.

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

(M. R. MENGDEY,J)

NABILA