IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 20184 of 2024

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PANDOR KANABHAI LAXMANBHAI

Versus

STATE OF GUJARAT

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Appearance:
MR. ABHISHEK A JOSHI(6768) for the Applicant(s) No. 1
MR JK SHAH, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 10/10/2024

ORAL ORDER

1. **RULE.** Learned APP waives service of rule for the respondent-State.

2. The present application is filed under Section 483 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (for short "BNSS") for regular bail in connection with FIR being **C.R. No. 11188006240449 of 2024 registered with Malpur Police Station, Aravalli,** for the offences punishable under Sections 189(2), 191(2), 191(3), 190, 61(2), 121(1), 221, 125(a), 326(g), 109, 132, 310(2), 296(b) of BNSS and Section 135 of GP Act and Section 3 of Prevention of Damage to Public Premises Act. .

3. Learned Advocate appearing on behalf of the applicant submits that the applicant has nothing to do with the offence and he is falsely implicated in the offence. The applicant is in jail since 12.09.2024. It is further submitted that, considering the nature of the offence, the applicant may be granted regular bail with the imposition of suitable conditions.

4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is further submitted that the applicant is directly involved in the heinous crime. Therefore, the present application may be dismissed.

5. While granting bail, the Court has to consider the involvement of the accused in the alleged offence, the jurisdiction to grant bail has to be exercised on the basis of the well settled principles having regard to the facts and circumstances of each case and the following factors are to be taken into consideration while considering an application for bail: (i) the nature of accusation and the severity of the punishment and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses and threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations are required to be considered.

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the investigation papers. Following aspects have been considered:

(1) Investigation is almost over;

(2) No any recovery or discovery is required to be made from the applicants.

(3) None of the offence alleged is punishable with life sentence or death penalty;

(4) There was a mob of 300 people.

(5) Co-accused has been released on bail, therefore, in view of Law of parity laid down in the case of **Rameshbhai Batubhai Dhabi vs State of Gujarat reported in (2011) 3 GLR 1999**.

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** as well as in the case of **Gudikanti Narasimhulu And Ors vs. Public Prosecutor, High Court of Andhra Pradesh** reported in **(1978)1 SCC 240.** Obviously, the conclusion of trial will take time and keeping the accused behind the bars is nothing but amounts to pre-trial conviction and therefore, considering the celebrated principle of bail jurisprudence is that *"bail is a rule and jail is exception"* as well as the concept of personal liberty guaranteed under Article 21 of the Constitution of India, present application deserves consideration.

8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant/s 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/s on regular bail. Hence, the present application is allowed. The applicants is/are ordered

to be released on regular bail in connection with FIR being **C.R. No. 11188006240449 of 2024 registered with Malpur Police Station, Aravalli, on executing a personal bond of Rs.25,000/- (Rupees Twenty-five 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 & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;

(c) surrender passport, if any, to the Trial Court within a week;

(d) not leave the State of Gujarat without prior permission of the Trial Court concerned;

(e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) furnish the UIDAI Number, Contact Number/s, Passport Number (if he is having the passport), E-mail address and present address of his residence to the Investigating Officer

a(a) not take undue advantage of liberty or misuse liberty;

9. The authorities will release the applicant/s 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.

10. 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/s on bail.

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

(HASMUKH D. SUTHAR,J)

ALI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ISTAYAK ALI, PRIVATE SECRETARY, at High Court of Gujarat on 11/10/2024 18:17:27