

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE
CHARGESHEET) NO. 23036 of 2023**

=====

DHAVAL RASHIKBHAI PANDYA

Versus

STATE OF GUJARAT

=====

Appearance:

MR ASIM PANDYA SR ADVOCATE with

MR SHIRISH R PATEL(5605) for the Applicant(s) No. 1,2

MS MAITHILI MEHTA APP for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**Date : 18/01/2024****ORAL ORDER**

1. The applicants have filed this Application under Section 439 of the Code of Criminal Procedure for enlarging the applicants on Regular Bail in connection with FIR being C.R.No.I-11191020230546 of 2023 lodged with Vastrapur Police Station, District Ahmedabad.

2. Heard learned senior advocate Mr.Asim Pandya for the applicant. He submitted that the applicants have been falsely implicated in the present offence. The applicants have not committed any offence as alleged in the FIR nor had there been any intention of

committing any such offence. He submitted that, in fact, on 26.04.2023 three persons had come to his office out of whom one person had introduced himself as Piyushkumar Thakkar and said that he wanted to sell his land bearing Survey No.386 situated at Village:Ratanpur, Gandhinagar. He also had produced 7/12 abstracts pertaining to the said land and other parcels of land with Aadhar Card with him. The applicants had verified their Aadhar Card and had *prima facie* found to be genuine and, therefore, the applicant no.1 had agreed to purchase the said land from him. The applicant had also paid sum of Rs.10,50,000/- by cheque to the said Piyushkumar Thakkar. Subsequently, when the present FIR was lodged, it came to the notice of the applicants that the person who had introduced himself to be Piyushkumar Thakkar was actually not Piyushkumar Thakkar and he impersonated himself as Piyushkumar Thakkar and thus a fraud was played with applicant no.1. Having come to know about the said fact, the applicant no.1 himself had given an application to the Police Commissioner, Ahmedabad City in this regard. Thus, in the alleged

incident, there is direct or indirect part of the applicants of committing any offence. He, therefore, submitted to allow the present applicants and enlarge them on suitable conditions.

3. Learned APP Ms.Maithili Mehta opposed the application inter alia contending that all the forged documents were found from the custody of the present applicant no.1. Investigation is still in progress. He, therefore, submitted to dismiss the present application.

4. Heard learned advocates for the respective parties and perused the record.

5.1 From the record, it appears that present applicant no.1 was approached by some persons under the pretext of owners of the land viz. Piyushkumar Thakkar who was interested in selling the land in question to present applicant no.1. Out of the persons who had approached the applicant no.1, one person had projected himself to be Piyushkumar Thakkar and had also shown the documents pertaining to the land which was to be sold to applicant no.1. The applicant

no.1 was also shown Aadhar Card of said Piyushkumar Thakkar and thereon on the Aadhar Card, photograph of the person who had approached him was affixed. On the basis of the said documents, the applicant no.1 had agreed to purchase the land in question and had also paid part consideration of Rs.10,50,000/- to the said person. Subsequently, it came to knowledge of the applicant no.1 that a fraud was played with him and the person who had approached him was not Piyushmkumar Thakkar. Having come to know about the same, the applicant no.1 has lodged complaint in this regard with the Police Commissioner, Ahmedabad City. The record does not indicate that any of the document having been forged by the applicant no.1.

5.2 Insofar as applicant no.2 is concerned, only role attributed to him is to the effect that he was present with the applicant no.1. Except this, no other role is attributed to the applicant no.2.

6. Considering the above aspects, the present application deserves consideration and accordingly stands allowed. The Applicants Accused are ordered to

be released on bail in connection with the aforesaid FIR on executing personal bond of **Rs.10,000/-** each with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions that the applicants shall:

- (a) 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) maintain law and order and not to indulge in any criminal activities.
- (c) 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 the residence without prior permission of the trial Court.

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

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

8. Bail bond to be executed before the Trial Court having jurisdiction to try the case. It would be open for the Trial Court concerned to give time to furnish the solvency certificate if prayed for.

9. If breach of any of the above conditions is committed, the Trial Court concerned will be free to issue warrant or take appropriate action according to law. The Authorities will release the Applicants forthwith only if not required in connection with any other offence for the time being.

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

11. Rule is made absolute. Direct service permitted.

(M. R. MENGDEY,J)

MISHRA AMIT V.