

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL APPEAL (REGULAR BAIL - AFTER CHARGESHEET) NO.
1038 of 2024**

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MAHAVIR DILUBHAI VALA
Versus
STATE OF GUJARAT & ANR.
=====

Appearance:

SUDHANSHU A JHA(8345) for the Appellant(s) No. 1

MR PV PATADIYA(5924) for the Opponent(s)/Respondent(s) No. 2

MR HK PATEL APP for the Opponent(s)/Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI

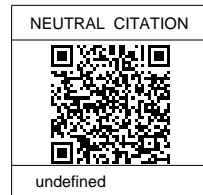
Date : 09/05/2024

ORAL ORDER

Heard Mr. Sudhanshu Jha learned advocate for the petitioners and learned APP Mr.H K Patel, for respondent – State.

2. By way of the present petition, the petitioner has prayed to release him on regular bail in connection with the FIR No. 11193004230334 before the Amreli Rural Police Station for the offence punishable u/s. 307, 504, 323 of Indian Penal Code, and section 135 of the Gujarat Police Act, and section 3(2)(v), 3(1)(r), and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

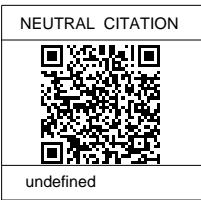
3. It is the case of the prosecution in FIR that when the complainant was parking his motorcycle, the tyre of the vehicle had pressed the leg of the accused, and that is scuffle started and the appellant had hit him with the pipe, and thereafter with axe. It is alleged that thereafter the complainant had called the



108 ambulance and after primary treatment, the complainant was discharged, but again on the next day, he was feeling dizziness and got himself admitted again into the hospital. Upon filing of the FIR, the petitioner preferred bail application before the learned Court below which came to be rejected and thus present application is filed seeking bail.

4. Learned advocate for the petitioner would submit that minor injuries were caused upon the victim and he was discharged from the hospital on the same day. He would further submit that he has not committed any offence under the Atrocities Act. He would further submit that the petitioner is behind bar since last more than 10 months and considering the nature of incident, the petitioner may be enlarged on regular bail.

5. *Per contra*, learned APP objecting to grant of this application firstly would submit that petitioner has specifically used the words and lower the caste of the victim and thereby prima facie the offence under the Atrocities Act is committed. He would further submit that petitioner has applied multiple blow whereupon he firstly used the iron pipe and then spade and caused injuries on the head of the victim which indicates the intention of the accused was to kill the victim and therefore considering the said aspect the petitioner may not be released on regular bail. He would further submit that since the charge-sheet is filed and trial has commenced, as also as many as 19 antecedents are reported against the petitioner, he may not be granted regular bail.



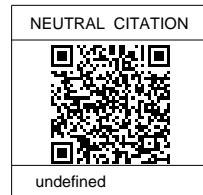
6. Having heard the learned advocates appearing for the rival sides and considering the fact that there are as many as 19 antecedents have been reported against the petitioner; details of which are as under as indicated from the report filed by the IO, which would suffice to deny the regular bail to the accused.

Sr. No.	CR No.	Name of Police Station	Sections
01	CR No.155 of 2018	Amreli City	379 of the IPC
02	CR No.156 of 2018	Amreli City	- do -
03	CR No.158 of 2018	Amreli City	- do -
04	CR No.61 of 2019	Amreli Rural	Section 279 of IPC and 185 and 179 of MV Act
05	CR No.193 of 2019	Amreli Rural	66(1)(b) and 65(a)(a) of Prohibition Act
06	CR No.342 of 2019	Amreli Rural	Prohibition Act
07	CR No.004 of 2020	Amreli Rural	379, 186 and 114 of IPC
08	CR NO.044 OF 2020	Amreli Rural	354, 354(D), 354(A), 341, 509, 504, 506(2) and 114 of IPC and under Section 135 of GP Act
09	CR NO.592 OF 2020	Amreli Rural	Prohibition Act
10	CR NO.746 OF 2020	Amreli Rural	Prohibition Act
11	CR NO.223 OF 2020	Amreli Rural	Prohibition Act
12	CR NO.012	Amreli Rural	Prohibition Act



	OF 2021		
13	CR NO.274	Amreli Rural	307, 354(a), 323, 120-A, 504, 509 and 506(2) of IPC and under Section 135 of GP Act
14	CR NO.680 OF 2021	Amreli Rural	Prohibition Act
15	CR NO.045 OF 2021	Amreli Rural	354, 354(D), 354(A), 323, 504, 506(2), 509 and 114 of IPC and under Section 8 and 12 of POCSO Act
16	CR NO.619 OF 2022	Amreli Rural	385, 387, 323, 504, 506(2) and 114 of IPC
17	CR NO.216 OF 2019	Amreli Rural	Prohibition Act
18	CR NO.396 OF 2019	Amreli Rural	Prohibition Act
19	CR NO.297 OF 2020	Amreli Rural	Under Section 3 of Epidemic Act and under Sections 369, 270 and 188 of the IPC

7. Apart from this, the petitioner was detained under the PASA once. Although charge-sheet is filed in the present case, antecedents registered against the petitioner is of a nature which is indicative of the fact that petitioner after admitting to bail has time and again involved himself in multiple offences and became a habitual offender in committing the crime. All crime registered against the petitioner is within Amreli District; which shows he is threat and danger to society.



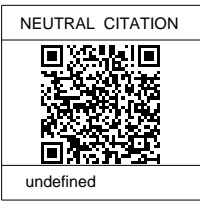
8. Now, insofar as the role played by the petitioner is concerned, he is the sole accused in offence of attempt to murder; firstly he caused injury with the iron pipe and with the spade and injury was caused on the back side of the head with iron pipe i.e. on vital part of the body. Thus, considering this aspect, the petitioner is not entitled to the bail. Furthermore, charge-sheet is filed; trial is commenced and therefore at this juncture it would not be in the fitness of things to release the petitioner on regular bail as there are chances of hampering with the evidence.

9. In **Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav and Anr.** reported in (2004)7 SCC 528, the Hon'ble Apex Court has held in paragraph 11 as under:

"11. The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail, they are,

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;

(b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;



(c) Prima facie satisfaction of the Court in support of the charge;”

10. In the result, present petition fails and stands dismissed.

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(J. C. DOSHI,J)