

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 10630 of 2024
(FOR SUCCESSIVE REGULAR BAIL - AFTER CHARGESHEET)**

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ISMAIL IBRAHIM CHAVDA
Versus
STATE OF GUJARAT

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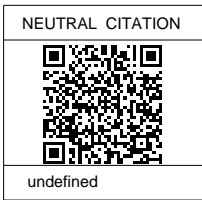
Appearance:

MR PM DAVE(263) for the Applicant(s) No. 1
MR SAFWANKHAN M SINDHI(9889) for the Applicant(s) No. 1
MS MONALI BHATT APP for the Respondent(s) No. 1

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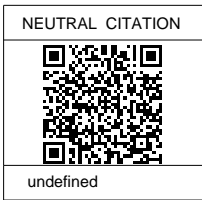
CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 14/06/2024****ORAL ORDER**

1. Rule. Learned APP waives service of notice of rule for respondent – State of Gujarat.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with the FIR being C.R. No.11993007231018/2023 registered with the 'B' Division Police Station, Gandhidham for the offence punishable under Sections 3(1)(ii), 3(2) and 3(4) of the GUJCTOC Act.
3. Learned advocate for the applicant submitted that the so-called incident has taken place for the period between 01.01.2015 to 10.09.2023, for which, the FIR has been lodged on 10.09.2023 and the applicant has been arrested in connection with the same on 10.09.2023 and since then, he is in



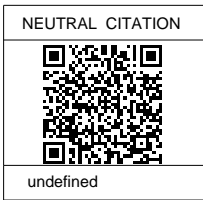
judicial custody. Learned advocate submitted that now the investigation is completed and after submission of the chargesheet, the present application is preferred. Learned advocate submitted that at the time of registration of the FIR, the prosecution has put reliance upon two offences registered against the applicant and at the time of filing of the chargesheet, the prosecution has put reliance upon total four offences, details of which are mentioned in the chargesheet. Learned advocate submitted that if this Hon'ble Court would make a cursory glance upon the contents of the FIR, in that event, it would be found out that only one offence is registered after invocation of the provision of the GUJCTOC Act and, hence, the case of the applicant does not fall under the definition of Section 2(1)(c) of the GUJCTOC Act. It is, therefore, urged that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Learned APP for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is submitted that the role of the present applicant is clearly spelt out from the papers of the chargesheet. Learned APP has relied upon the decision of Hon'ble Supreme Court in the case of **Zakir Abdul Mirajkar v. the State of Maharashtra & Ors**, rendered in Criminal Appeal No.1125 of 2022, and submitted in the said



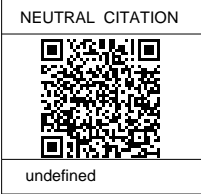
case, it has been specifically observed by the Hon'ble Supreme Court that, 'it is settled law that more than one charge sheet is required to be filed in respect of the organized crime syndicate and not in respect of each person who is alleged to be a member of such a syndicate'. Thus, from the aforesaid decision it is clear that requirement of registration of more than one charge-sheet, as per the provisions of GUJCTOC Act, would be in respect of organized crime syndicate and not in respect of each person who is alleged to be a member of such syndicate. It is, therefore, urged that the present application may not be entertained.

5. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.
6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. It is found out from the record that the present application is preferred after submission of the chargesheet and now the investigation is completed and the applicant is in jail since 10.09.2023. It is found out that at the time of filing chargesheet, the prosecution has put reliance upon total four offences, however out of them, only one offence is registered after the invocation of the provision



of the GUJCTOC Act. I have considered the role attributed to the present applicant at the time of commission of crime and the role attributed to the co-accused, who has been considered by the Coordinate Bench of this Court. Therefore considering the above factual aspects and on the ground of parity, the present application deserves to be allowed.

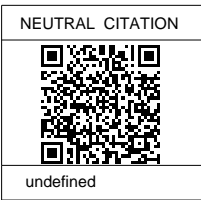
7. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**, reported in [2012] 1 SCC 40 as well as in case of **Satender Kumar Antil v. Central Bureau of Investigation & Anr.** reported in (2022) 10 SCC 51.
8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant 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 on regular bail.
9. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.11993007231018/2023 registered with the 'B' Division Police Station, Gandhidham on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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;
- [c] surrender passport, if any, to the concerned court within a week;
- [d] not leave the State of Gujarat without prior permission of the concerned court;
- [e] mark presence before the concerned Police Station on alternate Monday of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
- [f] furnish the present address of residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;

10. The authorities will release the applicant 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 concerned 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.



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

(DIVYESH A. JOSHI, J.)

Gautam