

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL (REGULAR BAIL - AFTER CHARGESHEET) NO.
1071 of 2024**

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HARSUKHBHAI MULJIBHAI DELVADIYA
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR. NIPUL H GONDALIA(6894) for the Appellant(s) No. 1

Mr. H.K. Patel, APP for the Opponent(s)/Respondent(s) No. 1

RULE SERVED TO CONCERNED POLICE STATION HOWEVER, SERVICE
REPORT NOT FILED BY POLICE STATION for the
Opponent(s)/Respondent(s) No. 2

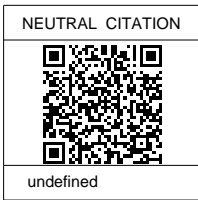
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CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 28/05/2024

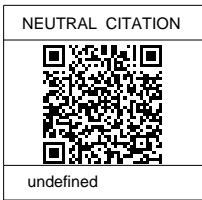
ORAL ORDER

1. **RULE.** Learned APP waives service of rule for the respondent-State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being **C.R.NO. 11203030230952 of 2023 registered with Keshod Police Station, District Junagadh.**
3. Learned Advocate Mr. Nipul Gondalia appearing on behalf of the applicant submits that the applicant is senior citizen and has not committed any offence. It is further submitted that the applicant has been falsely implicated in the commission of the alleged offence as the applicant is not named in the FIR. It is further submitted that the applicant has no criminal antecedent



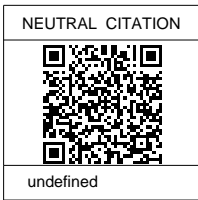
and there is no prima facie case against the present applicant and hence, prayed to release the applicant on regular bail.

4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail.
5. This Court has heard the learned advocates appearing on behalf of the respective parties and perused the papers.
6. Following aspects were considered for granting bail:
 - (a) Though notice was served, the complainant has not appeared
 - (b) Admittedly, the allegation of Section 376 of IPC is not against the present applicant.
 - (c) role of the applicant is that his farm was used for committing the offence.
 - (d) Charge-sheet is filed
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.***
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 FIR being **C.R.NO. 11203030230952 of 2023 registered with Keshod Police Station, District Junagadh.**, on executing a personal bond of Rs.10,000/- (Rupees Ten 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 present address of his residence to the



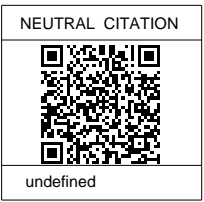
Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of Trial Court;

- g) not enter the area of Keshod Police Station, District Junagadh till conclusion of trial except for the purpose of marking presence before the concerned Police Station and attending the trial proceedings.
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 Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.
11. 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.
12. 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.
13. Rule is made absolute to the aforesaid extent. **Direct service** is permitted.

(M. K. THAKKER,J)

R/CR.A/1071/2024

ORDER DATED: 28/05/2024



VASIM S. SAIYED