

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER CHARGESHEET) NO. 11272 of 2024**

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AEJAZ AMADBHAI CHANIYA
Versus
STATE OF GUJARAT

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Appearance:

MR. J. M. PANCHAL, LD. SR. ADV. WITH MR KRUNAL L SHAHI(6519) for the Applicant(s) No. 1

MR. SOHAM JOSHI, LD. ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 1

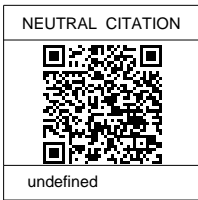
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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 20/06/2024

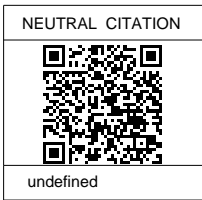
ORAL ORDER

1. Rule returnable forthwith. Learned APP waives service of notice of rule for and on behalf of 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 the FIR being C.R. No.11189003212003 of 2021 registered with the Morbi City 'A' Division Police Station, Morbi of the offence punishable under Sections 302, 307, 323, 341, 427, 143, 147, 148, 149, 120(b) and 34 of the IPC, Section 25(1-B) of the Arms Act, Section 135 of the G.P. Act and Sections 3(1), 3(2), 3(4) of the GUJCTOC Act.
3. Learned senior advocate Mr. J.M. Panchal assisted by learned advocate Mr. Krunal Shah appearing for the applicant has submitted that the applicant-accused was arrested on 10.09.2021 and since then he is in jail. Learned senior



advocate Mr. Panchal has also submitted that the investigation has already been completed and charge-sheet has also been filed. Learned senior advocate Mr. Panchal has submitted that the complainant is the hearsay evidence, who has lodged the complaint on the basis of the information received by him from the eye-witnesses. It is moreso submitted that so far as the role attributed to the present applicant is concerned, at the time of commission of the crime, he was standing with the other co-accused with the wooden log (Dhoka) in his hand. The applicant has not inflicted any blow to the deceased by the said weapon, and the said fact is also corroborated with the medical evidence which shows that the injuries received by the deceased was by the firearms. Learned senior advocate Mr. Panchal has further submitted that there is no recovery or discovery of any weapon at the instance of the applicant-accused. It is also submitted that the other co-accused having similar or graver role than the applicant-accused, have already been enlarged on bail by this very Court. Learned senior advocate Mr. Panchal has also submitted that the applicant-accused was arrested on 10.09.2021 and since then he is in jail, i.e, for than two and half years and, therefore, considering thed period of incarceration already spent by the applicant-accused, he may be considered for bail. Under the circumstances, learned senior advocate Mr. Panchal prays that the applicant may be enlarged on bail on any suitable terms and conditions.

4. The learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. Learned APP has submitted that



considering the role attributed to the applicant-accused, this is a fit case wherein discretionary power of this Court is not required to be exercised in favour of the applicant-accused.

5. The 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. This Court has also considered the following aspects;

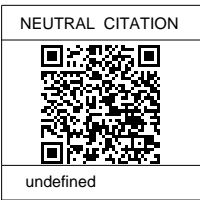
a) That the investigation has already been completed and charge-sheet has also been filed;

b) That the other co-accused, having similar or graver role than that of the applicant-accused, have already been released on bail by this very Court;

c) That there is no recovery or discovery of the alleged weapon at the instance of the applicant-accused;

d) That the applicant-accused is in jail since 10.09.2021 and, therefore, considering the period of incarceration already spent by the applicant-accused, the present application deserves consideration.

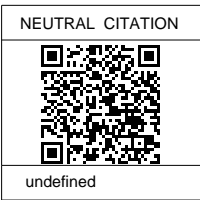
7. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**, reported in [2012]1 SCC 40.



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 and the applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.11189003212003 of 2021 registered with the Morbi City 'A' Division Police Station, Morbi, 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 injuries to the interest of the prosecution;
- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;
- [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 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. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(DIVYESH A. JOSHI,J)

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