

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER**  
**CHARGESHEET) NO. 6740 of 2024**

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SURESHKUMAR S/O PANDIYAN PILLAI  
Versus  
STATE OF GUJARAT

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Appearance:  
MR. JAY M THAKKAR(6677) for the Applicant(s) No. 1  
MS. SHRUTI PATHAK, ADDL. PUBLIC PROSECUTOR for the  
Respondent(s) No. 1

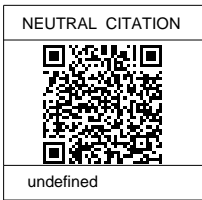
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**CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI**

**Date : 08/05/2024**

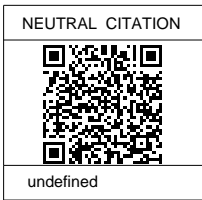
**ORAL ORDER**

1. Heard learned advocate Mr. Jay M. Thakkar for the applicant and learned APP Ms. Shruti Pathak for the respondent – State.
2. By this application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant is seeking release on regular bail in connection with the FIR being **I- C.R.No. 06 of 2017 registered with Borsad Town Police Station, District Anand** for the offences punishable under Sections **307 and 120 (b) of the Indian Penal Code and sections 25 (1) AB and 27 (1) of Arms Act.**



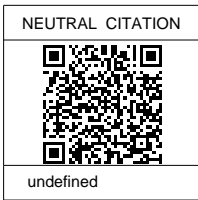
3. Learned advocate Mr. Jay Thakkar for the applicant made following submissions:-

- 3.1. The applicant is in jail since 18.01.2027.
- 3.2. The investigation is over and the charge-sheet is filed.
- 3.3. He also pointed out to the fact that upon rejection of bail application of the co-accused namely Suresh @ Anna when he approached the Hon'ble Supreme Court by way of Criminal Appeal No. 232 of 2024, the Hon'ble Supreme Court vide order dated 12.01.2024 enlarged him on regular bail.
- 3.4. He further submitted that though the applicant is in jail since 2017, till date the trial is not over.
- 3.5. The role of the present applicant is similar to one Mohmad Sabir Nurmahmad Momin who has been enlarged on bail by this Court vide order dated 29.07.2021 in Criminal Misc. Application No. 7575 of 2021.
- 3.6. He further submitted that the aforesaid co-accused namely Mohmad Sabir Nurmahmad Momin was the one who was riding the bike and it is alleged that the present applicant fired a gunshot which though caused the injury to the victim but which



has not resulted into death of the victim. He further submitted that the trial is going on at a snail's pace and considering the fact that the applicant is in jail since 18.01.2017 i.e. for more than 7 years and considering the fact that co-accused Suresh @ Anna has been enlarged on regular bail by the Hon'ble Supreme Court as well as co-accused Mohmad Sabir Nurmahmad Momin who was riding the bike has been enlarged on regular bail by the Coordinate Bench of this Court, the present applicant also may be enlarged on bail.

4. Learned APP Ms. Shruti Pathak appearing for the respondent – State vehemently opposed this bail application and submitted that the present applicant has actively participated in the offence. It was submitted that the present applicant had fired the gun shot whereas the other co-accused namely Mohmad Sabir Nurmahmad Momin was only riding the bike, that is the vital difference in the role of the co-accused and present applicant and therefore, the role of the present applicant cannot be said to be similar to the Mohmad Sabir Nurmahmad Momin.

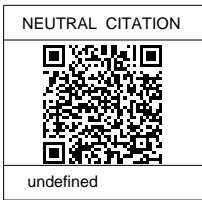


4.1. Further it was pointed out by learned APP that other co-accused namely Suresh @ Anna who has been enlarged on regular bail by the Hon'ble Supreme Court vide order dated 12.01.2024 has not played an active role in the offence in question and considering the fact that the present applicant was carrying a weapon and it is alleged that he had fired gunshot at the victim person who survived, his role was different than other co-accused and therefore, he cannot claim parity.

4.2. Learned APP Ms. Pathak also submitted that there are four antecedents reported against the present applicant and therefore, he may not be enlarged on regular bail.

5. In the facts and circumstances of the case and considering the nature of allegations, this Court is of the opinion that, discretion is required to be exercised to enlarge the applicant on regular bail. This Court has considered the following facts while exercising discretion in favour of the applicant :-

(i) the applicant is in jail since 18.01.2017;

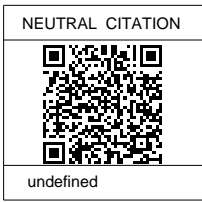


(ii) the investigation is over and the charge-sheet is filed;

(iii) co-accused namely Suresh @ Anna has recently been enlarged on regular bail by Hon'ble Supreme Court vide order dated 12.01.2024 in Criminal Appeal No. 232 of 2024.

(iv) Other co-accused - Mohmad Sabir Nurmahmad Momin has been enlarged on bail vide order dated 29.07.2021 in Criminal Misc. Application No. 7575 of 2021 by the Coordinate Bench of this Court against whom the allegation was that he was riding the bike over which the present applicant was sitting as a pillion rider and fired gunshot at the victim. However, the fact remains that the victim has survived.

(v) Further other co-accused namely Dushyantkumar Manubhai Patel is also enlarged on regular bail vide order dated 12.04.2017 in Criminal Misc. Application No. 8012 of 2017 by the Coordinate Bench and therefore, considering the over all facts and circumstances as we all on the ground of parity, the present applicant is also required to be enlarged on bail.

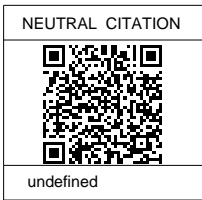


(vi) In view of four antecedents registered against the present applicant, the same can be taken care of by imposing suitable conditions.

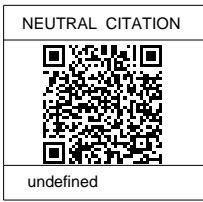
(vii) Further I have also considered the fact that though the applicant is in jail for around 7 years, the trial is not yet over and the aforesaid fact could not be disputed by learned APP.

6. In view of the aforesaid facts, without discussing the evidence in detail, this Court, prima facie, is of the opinion that, this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, present application is allowed and the applicant is ordered to be released on regular bail in connection with the FIR being **I- C.R.No. 06 of 2017 registered with Borsad Town Police Station, District Anand** on executing personal bond of Rs.15,000/- (Rupees Fifteen thousand only) with two sureties of the like amount to the satisfaction of the learned 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 lower court within a week;
  - [d] **not leave Gujarat without prior permission of the Sessions Judge concerned;**
  - [e] furnish latest 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 the trial Court;
  - [f] mark his presence before the concerned police station in every fortnight of every month till the trial is over;
7. The Authorities will release the applicant only if the applicant 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. Bail bond to be executed before the learned 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. At the trial, learned 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.

8. Rule is made absolute to the aforesaid extent. Direct service is permitted.

VARSHA DESAI

**(NIRZAR S. DESAI,J)**