

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE  
CHARGESHEET) NO. 7960 of 2024**

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JIGNESHBHAI THAKORBHAI PATEL  
Versus  
STATE OF GUJARAT

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Appearance:

MR RISHABH R JAIN(12326) for the Applicant(s) No. 1  
MR ASPI M KAPADIA(1865) for the Respondent(s) No. 1  
MR K M ANTANI, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**

**Date : 06/05/2024**

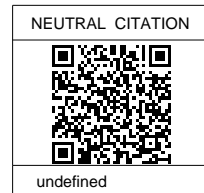
**ORAL ORDER**

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. 11214042240135 of 2024 registered with Olpad Police Station, Surat.**

3. Learned advocate appearing on behalf of the applicant submits that the alleged incident had taken place between 01.08.2019 and 02.08.2019, whereas the FIR came to be lodged for the said incident on 17.02.2024.

3.1 Learned advocate for the applicant has submitted that the first informant was very much aware about the incident having taken place in the Year 2021-22, however, he had chosen to



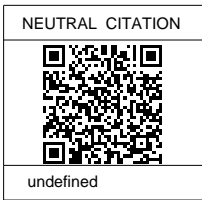
lodge the present FIR only in the Year 2024.

3.2 Learned advocate for the applicant has submitted that prior to lodging the FIR, the first informant had given a written complaint to the Superintendent of Police, Surat (Rural) on 13.07.2020. The said complaint was ordered to be filed by the Olpad Police Station since no offence was made out. Thereafter, the first informant had also filed several civil suits against the present applicant in which he had failed to obtain any interim order in his favour, and therefore, the present FIR has been lodged.

3.3 Learned advocate for the applicant has submitted that the only role attributed to the present applicant in commission of the offence is to the effect that he had signed the allegedly forged power of attorney in the capacity of witness.

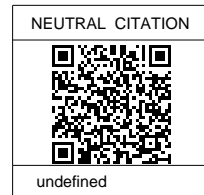
3.4 Learned advocate for the applicant has submitted that the co-accused having similar or more serious role than the present applicant have been considered for grant of anticipatory bail by the Coordinate Bench of this Court. He, therefore, submitted to allow the present application and enlarge the present applicant on bail subject to suitable conditions.

4. Learned APP has opposed the present application, inter alia, contending that the present applicant had signed the document of power of attorney in the capacity of witness despite the knowledge that the said power of attorney was forged. The investigation of the offence is still in progress. He, therefore, submitted to dismiss the present application.



5. Learned advocate for the original complainant has opposed the present application, inter alia, contending that the first informant had executed a power of attorney in favour of Zaheer Sarfulla Shaikh on 25.07.2019. However, since there were some discrepancies in the said power of attorney, it was decided to execute a fresh power of attorney, which was signed by the first informant on 01.08.2019. The accused persons procured the original power of attorney executed by the first informant.

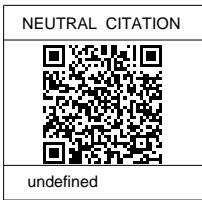
5.1 Learned advocate for the original complainant has submitted that the by the aforesaid power of attorney, the first informant had not given any powers to the attorney to transfer or alienate any of the properties mentioned in the said power of attorney and the recitals as regard giving power to the attorney for transfer had been intentionally scored off by the first informant. The said original power of attorney was obtained by the accused persons from the first informant and on 02.08.2019, another stamp paper was purchased by the co-accused Anjarali Haidarali Malek and 8 pages of the original power of attorney were changed and a forged power of attorney was prepared in favour of the said co-accused - Anjarali Haidarali Malek, who on the basis of the said power of attorney, executed 3 different sale-deeds in favour of 3 accused persons transferring the properties belonging to the first informant. Thus, the first informant had been duped and cheated by the accused persons of his properties. The applicant has played an active role in commission of offence as he had signed the forged power of attorney in the capacity of witness though he was aware that the



power of attorney in question was forged.

5.2 Learned advocate for the original complainant has submitted that it is true that the first informant had given one application in the Year 2020 to the police authorities, which had been ordered to be filed by the Police Inspector, Olpad Police Station on 22.09.2021, however, while ordering to file the aforesaid complaint, the police authorities had not taken the relevant aspect of the offence into consideration, and therefore, the applicant had submitted another application and upon inquiry into the said application, since some substance was found, the present FIR has been lodged. The investigation of the offence is still in progress. The role of the co-accused, who are being considered for grant of anticipatory bail is much more lesser than the role attributed to the present applicant. Therefore, the applicant cannot claim parity with the said co-accused. He, therefore, submitted to dismiss the present application.

6. Heard learned advocates for the parties and perused the material material available on record. As per the case of prosecution, the first informant had executed a power attorney in favour of Zaheer Sarfulla Shaikh for administration of the properties belonging to the first informant. The pages of the said power of attorney executed by the first informant had been changed by the co-accused and another forged power of attorney was prepared appointing the co-accused Anjarali Haidarali Malek as a attorney giving him right to transfer and alienate the properties belonging to the first informant.

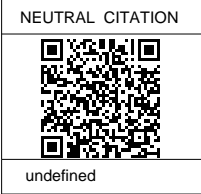


7. It is alleged against the present applicant that he had signed the alleged forged power of attorney in his capacity as a witness. It is the said Anjarali Haidarali Malek, who, on the basis of the said forged power of attorney, had executed 3 different sale-deeds in favour of 3 different accused persons. No overt act has been attributed to the present applicant in commission of offence in question.

8. It is an admitted position that the alleged forgery had taken place in the Year 2019. The first informant was very much aware about the said fact, and therefore, in the Year 2020, he had submitted one application to the police authorities in that regard. The said application was ordered to be filed by the Police Inspector, Olpad Police Station on 22.09.2021 as no offence as alleged was made out. Thereafter, the first informant appears to have lodged several civil litigations against the accused persons, wherein he has not been able to obtain any interim orders in his favour. Thereafter, the first informant submitted another application before the police authorities with the very facts and on the basis of the said application, the present FIR has been lodged. The record also indicates that the other co-accused have been ordered to be enlarged on anticipatory bail by the Coordinate Bench of this Court.

9. 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.

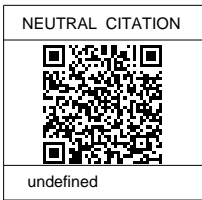
10. In the facts and circumstances of the case and considering



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.

11. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being **C.R.NO. 11214042240135 of 2024 registered with Olpad Police Station, Surat**, 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;



12. 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.

13. 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.

14. 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.

15. Rule is made absolute to the aforesaid extent.

**Direct service** is permitted.

GIRISH

**(M. R. MENGDEY,J)**