

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 8712 of 2024**

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KHETARAM @ CHUNARAM DURGARAM SIYAG (JAT)
Versus
STATE OF GUJARAT

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Appearance:

MR MUNJAL V ACHARYA(10678) for the Applicant(s) No. 1
MR. TIRTHRAJ PANDYA, APP for the Respondent(s) No. 1

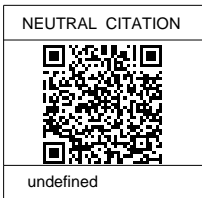
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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 06/05/2024

ORAL ORDER

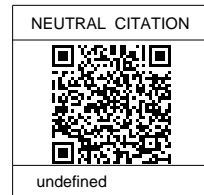
- 1. Rule.** Learned APP waives service of notice of Rule on behalf of respondent-State.
- 2.** This application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with **F.I.R. No.11195018240211 of 2024 registered with Dhanera Police Station, District Banaskantha.**
- 3.** Learned advocate for the applicant submits that considering the nature of offence and role attributed to the applicant, the applicant may be enlarged on regular bail by



imposing suitable conditions.

4. The learned APP appearing for the respondent State vehemently submits that investigation of the present offence is still in progress. It is further submitted that the opium worth 963 gms had been seized in the present case and out of which the present applicant had called for contraband substance 400 gms for personal consumption. Thus, there is active involvement of the present applicant in commission of alleged offence in question. He, therefore, submits that the offences which have been charged, are serious in nature and looking to the facts as well as the allegations made against the applicant, no discretion is required to be exercised.

5. I have heard learned advocates appearing for the parties. It appears from the record that the present applicant is neither named in the F.I.R. nor any contraband substance has been found from his personal possession. It is alleged that out of 963 gms which had been seized from the other co-accused, the present applicant was alleged to be a proposed purchaser of 400 gms of opium.

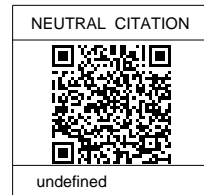


Except the statement of the co-accused, there is no other material against the present applicant. Having regard to these facts, the present application deserves to be allowed.

6. This court has also considered the following aspects:

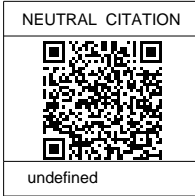
- (a) As per catena of decisions of Hon'ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. prima facie case, availability of Applicant accused at the time of trial and tampering and hampering with the witnesses by the accused.
- (b) That the learned Advocate for the Applicant has submitted that the Applicant Accused is not likely to flee away.
- (c) That the Applicant is in custody since 06.04.2024.
- (d) The law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. C.B.I. Reported in (2012) 1 SCC 40.**

7. In the facts and circumstances of the case and considering the nature of allegations made in the FIR and without discussing the

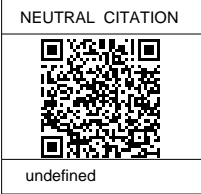


evidence in details as well as without going into details, prima-facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the applicant on bail. Hence, the application is allowed and the applicant is ordered to be released on bail in connection with the aforesaid FIR, on executing a bond of **Rs.10,000/-** with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that;

- (a) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade from disclosing such facts to the Court or any Police Officer or tamper with the evidence.
- (b) shall maintain law and order and not to indulge in any criminal activities.
- (c) shall furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change residence without prior permission of the trial Court.



- (d) shall provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the trial Court.
 - (e) shall file an affidavit stating immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any.
 - (f) shall not leave India without prior permission of the Trial Court
 - (g) surrender passport, if any, to the Trial Court within a week. If accused does not possess passport, shall file an Affidavit to that effect.
8. The authorities concerned shall 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. 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.

9. At the trial, the concerned trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order.

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

NABILA

(M. R. MENGDEY,J)