

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE
CHARGESHEET) NO. 8749 of 2024**

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JITENDRASINGH JANAKSINGH KUSHWAH
Versus
STATE OF GUJARAT

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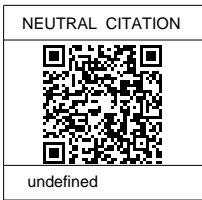
Appearance:

MR SANDIP M PATEL(5649) for the Applicant(s) No. 1
MR VAIBHAV A VYAS(2896) for the Applicant(s) No. 1
MR TIRTHRAJ PANDYA, ADDITIONAL PUBLIC PROSECUTOR for the
Respondent(s) No. 1

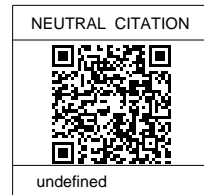
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CORAM:HONOURABLE MS. JUSTICE GITA GOPI**Date : 09/05/2024****ORAL ORDER**

- 1. RULE.** Learned Additional Public Prosecutor waives service of notice of Rule on behalf of respondent – State.
- 2.** This application has been filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with the First Information Report being C.R. No.11198053210839 of 2021 registered with Talaja Police Station, Bhavnagar for the offences punishable under Sections 65(e), 65-A, 81, 83, 116(B) and 98(2) of the Prohibition Act.

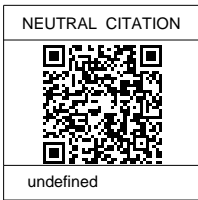


3. Learned Advocate for the applicant Mr. Sandip Patel submitted that the applicant is a Class III Employee of the Railways Department. It is further submitted that because of the past animosity with Narayan Singh from Udaipur with regard to some investment dispute of the present applicant with the friend of Narayan Singh, the applicant has been unnecessarily harassed and the name of the applicant has been given as a proposed purchaser. It is also submitted that for the First Information Report of the year 2021, the applicant has been arrested now.
4. Referring to the Remand application dated 27.10.2021 before the learned Court at Talaja, Bhavnagar, learned Advocate for the applicant submitted that one – Balkrishna Vaishnav who is also from Udaipur, has been referred in the remand application, wherein he has retracted the earlier statement of having sent WhatsApp information to the present applicant. It is further submitted that the Narayan Singh had developed a modus operandi of sending WhatsApp Chat to the present applicant with a motive to falsely



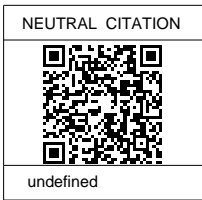
implicate the present applicant in all the prohibition matters, where he would be the supplier of the prohibited liquor and on the basis of WhatsApp message, the name of the present applicant would be arraigned in all criminal cases. It is further submitted that the present applicant had made a representation to the police by showing the WhatsApp messages which was sent by Narayan Singh to create false evidence against the present applicant. It is further submitted that the Driver of the truck was also instigated by Narayan Singh by giving the mobile number instructing to deliver the goods to the applicant. It was, therefore, prayed that the present application may be allowed and the applicant herein may be released on regular bail.

5. Learned Additional Public Prosecutor Mr. Tirthraj Pandya submitted that in a earlier case, the applicant may not have been apprehended but the evidence of his involvement could be found out from the WhatsApp chats which is reflected in the First Information Report and therefore, the applicant has been apprehended. It is further submitted that the



statement of the driver of the truck clearly suggests that the applicant is the purchaser of the prohibited liquor. It was, therefore, prayed that no discretion may be exercised in favour of the applicant.

6. Heard learned Advocates on both the sides and perused the material on record. This Court has taken into consideration the statement in the remand application dated 27.10.2021 by the Local Crime Branch, Jamnagar, the role attributed to the present applicant of being the proposed purchaser coupled with the statement of the present applicant of being falsely implicated on the basis of the evidence of chatting coupled with the fact that the applicant had made a representation to the police informing that the co-accused Narayan Singh had been creating evidence by way of WhatsApp chats and the fact that he has been shown as a proposed purchaser by the communication of the Driver of the truck. In addition, the statement of the driver of the truck reveals that it was Narayan Singh who had instructed him to deliver the prohibited liquor but such liquor was not found in his possession. Considering the facts



and circumstances of the case, this Court finds this to be a fit case where discretion could be exercised in favour of the applicant.

7. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with the First Information Report being C.R. No.11198053210839 of 2021 registered with Talaja Police Station, Bhavnagar 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;

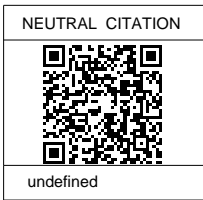
[a] not take undue advantage of liberty or misuse liberty;

[b] not act in a manner injurious to the interest of the prosecution;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave India without prior permission of the concerned trial court;

[e] 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 the concerned trial court;

8. 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. Bail bond to be executed before the lower Court having jurisdiction to try the case.
9. Rule is made absolute to the aforesaid extent. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.

CAROLINE

Sd/-
(GITA GOPI, J)