

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 8759 of 2024**

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SURYAKANTBHAI SHANTIBHAI (SHANTILAL) TALAVIYA & ANR.  
Versus  
STATE OF GUJARAT

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**Appearance:**

MR. RAVI PAHWA for THAKKAR AND PAHWA ADVOCATES(1357) for the applicants (s) No. 1,2

MR. TIRTHRAJ PANDYA, APP for the Respondent(s) No. 1

MR. DHARMESH DEVNANI with MR. POONAM MEHTA for the Respondent No.2

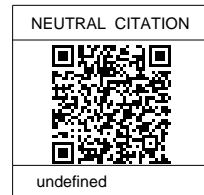
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**CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY**

**Date : 08/05/2024**

**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.11193004240176 of 2024 registered with Amreli Rural Police Station, District Amreli.**
- 3.** Learned advocate for the applicants submits that considering the nature of offence and role attributed to the applicants, the



applicants may be enlarged on regular bail by imposing suitable conditions.

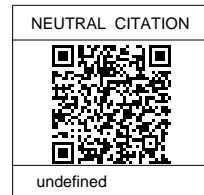
4. The learned APP appearing for the respondent State vehemently submits that the offences which have been charged, are serious in nature and looking to the facts as well as the allegations made against the applicants, no discretion is required to be exercised.

5. Learned advocate Mr. Dharmesh Devnani submits that he has received instructions to appear on behalf of the original complainant and he will be filing his Vakalatnama before the Registry.

5.1 Learned advocate Mr. Devnani, on instructions, states that some oral settlement has been arrived at between the parties and in view of the oral settlement, the original first informant has no objection if the applicants are enlarged on bail. He also produces Communication dated 08.05.2024 addressed to him by one Maheshbhai Bhavanbhai Kabariya along with affidavit (which is ordered to be taken on record).



6. Learned advocate for the applicant responds that he will abide by oral settlement which has been arrived at between the parties.
  
7. I have heard learned advocates appearing for the parties. Having regard to the facts that the matter is amicably settled between the parties and the first informant has stated on oath that he has no objection, if the applicants are enlarged on bail and also having regard to the nature of offence, the present application deserves to be allowed.
  
8. 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 applicants accused at the time of trial and tampering and hampering with the witnesses by the accused.
  - (b) That the learned Advocate for the applicants have submitted that the applicants Accused are not likely to flee away.

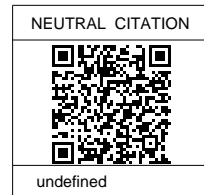


(c) That the applicants are in custody since 15.04.2024.

(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.**

9. 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 applicants on bail. Hence, the application is allowed and the applicants are ordered to be released on bail in connection with the aforesaid FIR, on executing a bond of **Rs.10,000/- (EACH)** 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.
10. The authorities concerned shall release the applicants only if they are 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.

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

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

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

NABILA