

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE CHARGESHEET) NO. 9141 of 2024**

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BHAVESH @ MUSO @ BUSO KESHUBHAI KAKADIYA
Versus
STATE OF GUJARAT

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Appearance:

MR DIPESH D SONI(9996) for the Applicant(s) No. 1

MR JALPESH R PALADIYA(12448) for the Applicant(s) No. 1

MR. L.B. DABHI, LD. ADDL. PUBLIC PROSECUTOR for the Respondent(s)
No. 1

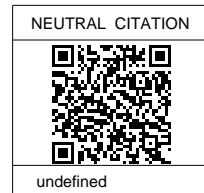
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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 08/05/2024

ORAL ORDER

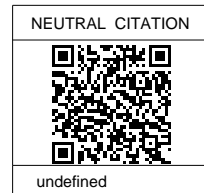
1. Rule returnable forthwith. Learned APP waives service of notice of rule for and on behalf of the respondent-State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with the FIR being C.R. No.11210015230242 of 2023 registered with the D.C.B. Police Station, Surat of the offence punishable under Sections 420, 465, 467, 468, 471, 120-B, 201 and 34 of the IPC.
3. Learned advocate appearing for the applicant has submitted that the applicant-accused was arrested on 19.04.2024 and since then he is in jail. Learned advocate for the applicant has also submitted that the the first information report came to be filed against total five persons wherein the applicant-accused has been shown as accused No.2. Pursuant to the filing of the FIR, all the accused persons got arrested



and, therefore, charge-sheet qua them has been filed, however, as the applicant-accused has been arrested subsequently, the same has not been filed against him. The role attributed to the applicant-accused is that the present applicant-accused obtained the GST details of the firm of the complainant from the co-accused and then sold it out to another co-accused for getting some monetary benefits. Except that, no other allegations have been levelled against the applicant-accused. It is submitted that the entire case of the prosecution hinges upon the documentary evidence and all the documents have already been collected by the investigating officer during the course of investigation. Learned advocate for the applicant has submitted that all the offences are exclusively triable by the court of Magistrate. It is further submitted that the other co-accused persons, having more or less, similar role to that of the applicant-accused, have already been enlarged on bail by this very Court. Under the circumstances, learned advocate for the applicant prays that the applicant may be enlarged on bail on any suitable terms and conditions.

4. The learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. Learned APP has submitted that considering the role attributed to the applicant-accused, this is a fit case wherein discretionary power of this Court is not required to be exercised in favour of the applicant-accused.

5. The learned advocates appearing on behalf of the respective parties do not press for further reasoned order.



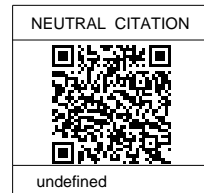
6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. This Court has also considered the following aspects;

- a) That the applicant-accused is in jail since 19.04.2024;
- b) That the other co-accused persons, having more or less similar role to the present applicant-accused have already been enlarged on bail by this very Court;
- c) That the present offence is a Magistrate Triable Offence;

7. 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.

8. 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.

9. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.11210015230242 of 2023 registered with the D.C.B. Police Station, Surat, on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety of the like amount to the



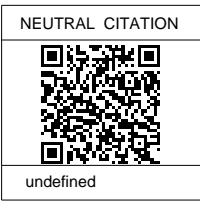
satisfaction of the trial Court and subject to the conditions that he shall;

- [a] not take undue advantage of liberty or misuse liberty;
- [b] not act in a manner injuries to the interest of the prosecution;
- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;
- [e] mark presence before the concerned Police Station on alternate Monday of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
- [f] 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 this Court;

10. 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.

11. 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.

12. 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. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(DIVYESH A. JOSHI,J)

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