

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - BEFORE
CHARGESHEET) NO. 9271 of 2024

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SAID BASIRBHAI MALEK
Versus
STATE OF GUJARAT

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Appearance:
MR DAX K SOLANKI(12696) for the Applicant(s) No. 1
MR JAY MEHTA APP for the Respondent(s) No. 1

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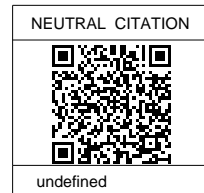
CORAM:HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 22/05/2024

ORAL ORDER

[1] **RULE.** Learned Additional Public Prosecutor waives service of notice of Rule on behalf of the respondent - State of Gujarat.

[2] The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR No.11196027240156 of 2024 registered with Karelibaug Police Station, District: Vadodara for the offences under Sections 379A and 447 of the Indian Penal Code.



[3] Learned advocate appearing for the applicant has submitted that the present applicant is an innocent person and has no role in commission of the alleged offence. It is submitted that the present applicant is not involved in the present offence directly or indirectly and having no criminal antecedents. It is further submitted that the muddamal has been recovered by the investigating agency and the said muddamal has not been recovered from the possession of the applicant. It is also submitted that the applicant is having his permanent residence at the address mentioned in the cause title of the present applicant and the applicant is not likely to abscond or flee away and the presence of applicant for the purpose of trial is secured.

[3.1] Learned advocate for the applicant submits that considering the nature of

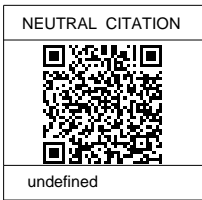


allegations, role attributed to the applicant, the applicant may be enlarged on regular bail by imposing suitable conditions.

[4] Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

[5] I have heard learned advocates appearing on behalf of the respective parties. Learned advocates appearing on behalf of the respective parties do not invite reasoned order. It is observed that the allegation against present applicant is with regard to offence under section 379-A. Recovery of the whole amount is done. There is no recovery from the present applicant and further, present applicant has no antecedents.

[6] This court has 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 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 is not likely to flee away.

(c) The muddamal has already been recovered and applicant having no antecedents.

(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 against the applicant in the FIR, I am of the opinion that discretion is required to be exercised in favour of the applicant and enlarged the applicant on regular bail. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an offence being FIR No.11196027240156 of 2024 registered with Karelibaug Police Station, District: Vadodara for the offences under Sections 379A and 447 of the Indian Penal Code 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 learned Trial Court and subject to the conditions that the applicant shall;

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

[b] not act in a manner injurious to the



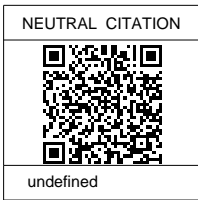
interest of the prosecution;

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

[d] not leave the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on every Monday of each English calendar month for a period of three months and thereafter, alternate Monday for a period of six months, between 11:00 a.m. and 2:00 p.m.;

[f] furnish latest and permanent 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;



[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 learned 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. At the trial, learned 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.

[9] Rule is made absolute to the aforesaid extent. Direct service is permitted.

(PRANAV TRIVEDI,J)