

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER
CHARGESHEET) NO. 12179 of 2023**

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MOHMMADBHAI HUSSAINBHAI CHORWADI
Versus
STATE OF GUJARAT

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Appearance:

MR HARSHIL G BHAVSAR(11263) for the Applicant(s) No. 1,2
MR RUTURAJ NANAVATI(5624) for the Applicant(s) No. 1,2
MR L B DABHI, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 26/10/2023

ORAL ORDER

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being **C.R.NO. 11186001220199 of 2022 registered with Gir-Gadhda Police Station, Gir-Somnath** for offence under Sections 143, 147, 148, 149, 302, 307, 323, 324, 325, 338 and 427 of the Indian Penal Code read with Section 30 of the Arms Act as well as read with Section 135 of the Gujarat Police Act.

2. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. She has submitted that the role attributed

to the present applicant is to the effect that he had caused injury to the deceased with stick along with the other co-accused persons. The applicant had actually participated in commission of offence in question. She, therefore, submitted to dismiss the present application.

4. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. In present case, the investigation is over and charge-sheet has been filed. The role attributed to the present applicant is to the effect that he had inflicted blow with stick upon the body of the deceased as a result of injuries sustained by the deceased, he had succumbed to the said injuries after the period of 46 days from the date of incident. This Court as well as Sessions Court have considered the case of co-accused, who are attributed with the similar role of causing the injuries to the deceased, for grant of regular bail.

5. 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.

6. 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.

7. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR

being **C.R.NO. 11186001220199 of 2022 registered with Gir-Gadhda Police Station, Gir-Somnath**, 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 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 & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not leave the State of Gujarat without prior permission of the Trial Court concerned;
- (e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;
- (f) furnish the present address of his 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 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.

9. 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.

10. 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.

11. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(M. R. MENGDEY,J)

GIRISH