

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC. APPLICATIONS NO. 2773 to 2778, 4426, 4427
3701, 3702 and 3703 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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RAMESHBHAI KARSHANBHAI BALDHA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 2773 to 2778
of 2001
MR DHARMESH D NANAVATY for Petitioner No. 1
Mr S J Dave, APP for Respondent No. 1
 2. Criminal Misc.Application No.4426, 4427 of 2001
Mr B C Dave, Advocate for the petitioners
Mr R C Kodekar, APP for the respondents
 3. Criminal Misc. Application No.3701, 3702 and 3703
of 2001
Mr Y S Lakhani, Advocate for the petitioner
Mr R C Kodekar, APP for the respondent
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CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 29/06/2001

ORAL (COMMON) JUDGEMENT

Rule.

All these applications have been filed by the respective applicants for their release on bail in connection with CRs. No.I.832/2000 of Pradyumanagar, Rajkot City Police Station, No.4/2001 of Rajkot City, 'A' Division Police Station and M.Case/C.R. No.5/2000 of Gondal City Police Station pending before the Pradymannagar police station for offence punishable under sections 107, 182, 193, 196, 199, 465, 467, 469, 471, 420 and 114, 120-B of IPC. The accusations against the petitioners above named may briefly be stated as under:

2. One Jivraj Koyani died a natural death on 15.3.2000 according to the case of the prosecution. However, with a view to get benefit of accidental death, the present petitioners and other accused persons conspired together and a show was made that the deceased died in Motor Accident on 19.3.2000. Accordingly, FIR was filed and Post Mortem note was prepared. Panchnama and inquest panchnama were prepared, statements of witnesses were recorded and in so doing, according to the case of the prosecution, the police constables were also involved in the said conspiracy. Some persons related to the deceased as well as some other persons coming forward as witnesses had all conspired together, had made a show that the deceased died on account of motor accident on 19.3.2000. Accordingly claims were made before the Insurance Company for getting the money and the amount was also collected from the Insurance Company. Thereafter a motor accident claim petition being M.A.C.P.No. 842/2000 was also filed before the learned MAC Tribunal at Gondal. In the meantime, it was traced out that the deceased did not die on account of injuries sustained in Motor vehicle accident on 19.3.20000, but he died a natural death on 15.3.2000 and a false case was made out as aforesaid. Accordingly two FIRs were filed before different Insurance Companies and one petition was filed before the MACT, Gondal. Offences were registered accordingly and investigation was undertaken. Charge-sheets have been filed in two cases out of the 4 cases. The present petitioners are shown to have been involved in the aforesaid offences, and therefore, they have filed this petition before this Court for their enlargement on bail. Out of the aforesaid petitioners, the petitioner Ramesh Karsan, who happens to be the petitioner in Misc.Criminal Applications No.2773, 2774

and 2775, is shown to be the eye witness, who has given statement accordingly during the course of the investigation. Though no such accident took place, he posed himself to be eye witness as part of the conspiracy for getting insurance money an accident claim money, as per the prosecution case.

3. Rajesh Vallabhbhai, Gajera being the petitioner in Misc.Criminal Applications No.2776, 2777 and 2778 of 2000 was shown to be a pillion rider of the motor cycle, who has also given statement before the police as a part of conspiracy, according to the case of prosecution. Bhanubhai Nathabhai Donga being the petitioner in Misc.Criminal Applications No.4426 and 4427/2000, is shown to be the brother-in-law of the deceased and he had filed FIR to show that the deceased died on account of injuries sustained on account of a motor vehicle accident. Sahadevsingh Goel, being the petitioner in Misc.Criminal Applications No.3701, 3702 and 3703 of 2001, shown to be Police Head Constable, is said to have recorded FIR and he is also said to have recorded inquest panchnama. Thereafter, it is also alleged that he allegedly handed over the dead body of the deceased to the hospital. It is also alleged that these persons committed criminal conspiracy for getting insurance money as well as for getting the accident claim money.

4. It is the contention of these petitioners that they have been wrongly impleaded as accused persons in the aforesaid cases and no case is made out against them. It is further contended by them that other persons accused in this case, have been enlarged on bail either by Sessions Court or by this Court. During the course of hearing it has been pointed out that two Doctors who are said to have performed the pot mortem have been enlarged on bail. Then the two brothers of the deceased have also been released on bail. Mansukhbhai, Ukabhai, Narad Chakubhai, Chimanbhai, Savitaben, widow of the deceased, Girishbhai Lakhman etc. have also been enlarged on bail. It is to be seen that out of them Savitaben, widow of deceased is said to have received the amount of compensation from the Insurance Company. Naradbhai is shown to be the Advocate who filed the petition on behalf of the widow of the deceased after getting the money on account of the said death of the deceased Jivrajbhai. It is to be considered that the co-accused have been enlarged on bail by this court as well as by the Sessions Court and looking to the fact that the Insurance money, said to have been collected by the widow of the deceased has also been enlarged on bail. It is also to be

considered that the doctors who have performed the post mortem of the deceased as a part of the alleged conspiracy, have also been enlarged on bail. Even the panch witness has also been released. In view of the above position, when the rest of the persons have been enlarged on bail, it would not be wrong if the petitioners are also placed on par with them and are also released on bail. At the same time, the offence said to have been committed by the petitioners are offences punishable under sections 465, 467, 469, 471 etc. of IPC. Looking to the nature of the offence said to have been committed and having regard to the facts and circumstances of the case, it can be said that the matter still requires consideration at the stage of trial. Charge-sheets have been filed in two matters. It is also noticed that in the case filed at Gondal City Police Station, stay order has been obtained against the investigation in the matter with respect to Manubhai Natha, who is said to have filed FIR in the case. In the above view of the matter, and looking to the facts and circumstances of the case and having regard to the nature of the offences said to have been committed by the petitioners, it would be just and proper to enlarge the present petitioner also on bail.

In the above view of the matter, all these applications are ordered to be allowed. The present petitioner in each case is ordered to be enlarged on bail on furnishing P.R. and solvent sureties in a sum of Rs.5,000/- (Rs. Five thousand only) to the satisfaction of the learned CJM at Rajkot./Addl.CJM,, Gondal..

- (1) The petitioners shall make themselves available for interrogation by a police officer as and when required
- (2) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- (3) The petitioners shall not leave Gujarat State without the prior permission of the Court;
- (4) On every 1st and 15th date of English Calendar month during the period from 10 am to 5 p.m. each petitioner shall appear before PSO of _____ police station, and shall mark their presence for which the learned JMFC/Sessions Judge, _____ shall write a Yadi directing PSO of the police station

_____ to keep and maintain a written record for such presence marked by the petitioners;

(5) The petitioners shall furnish their true and correct complete address of his residence as well as the work place where they will stay for the period from date of their release on bail to date of conclusion of trial of the case, both to the I.O. and learned JMFC/learned Sessions Judge, supported with affidavit;

(6) In case of any change in their address they shall immediately inform the learned JMFC/Sessions Judge, _____ about such change in address of residence;

(7) The petitioners shall surrender their passport to PSO of _____ police station, if any.

The learned JMFC/Sessions Judge, _____ shall examine and check all the documents which may be produced by a person who wants to stand as surety for petitioner/s for his satisfaction as to whether that person is in fact solvent or not and thereafter, it will be his judicial discretion that he may accept or refuse that person as surety for the petitioners.

Bail bonds be executed before the learned JMFC/Sessions Judge, _____.

If any one or more conditions are reported to have been breached by the petitioners, the learned JMFC/Sessions Judge, _____ shall be at liberty to issue non-bailable warrant against the petitioners.

Rule is made absolute accordingly. D.S. is permitted.

Date: 29.6.2001 [D P Buch, J.]

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