

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 10575 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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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 concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

IMRANKHAN MATBARKHAN PATHAN

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 10575 of 2003
MR AM VAHORA for Petitioner No. 1-2
MR PITAMBER ABICHANDANI A.P.P. for Respondent
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CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 26/12/2003

ORAL JUDGEMENT

Rule. Mr.Pitamber Abichandani learned A.P.P.
waives service of rule on behalf of respondent - State.

2. The applicants have approached this Court making a grievance that though they have been released on bail, the conditions imposed upon them by the learned Additional Sessions Judge, Kheda at Anand, vide order dated 18th December, 2003 are very onerous and they would amount to denying the bail to the applicants. By the said order, the applicants are directed to deposit a sum of Rs.10,000=00 each in cash. Over and above, submission of solvent surety for the like amount. They have been further directed to mark their presence on every Monday before the Investigating Officer between 10:00 a.m. and 12:00 noon and further that they will not be permitted to leave the limits of Anand District without obtaining prior permission of the said Court.

3. Mr.A.M. Vahora learned advocate appearing for the applicants submits that the applicants who are facing charge under Section 392 read with 114 of the Indian Penal Code are poor hawkers and they will not be in a position to deposit the aforesaid amount in cash. He further submits that such conditions would certainly amount to denying the bail to the applicants. He also submits that other conditions which have been referred to above are quite burdensome, which may kindly be relaxed.

4. Mr.Pitamber Abichandani learned A.P.P. appearing for the State opposes this application by submitting that the conditions imposed by the trial court are proper and there is no reason to relax them.

5. Considering the fact that the present applicants are hawkers, it is quite obvious that they will not be in a position to deposit a sum of Rs.10,000=00 each in cash. Further that the nature of their vocation also indicates that they are required to move to different places, even outside the District. In that view of the matter, marking of the presence on every Monday before the Investigating Officer and also to approach the Court to take its permission for leaving the District will cause further enormous hardships, apart from unnecessary financial expenditure.

6. In the circumstances, the aforesaid order of the learned Additional Sessions Judge, Kheda at Nadia is modified to the following extent :-

- (i) the condition with regard to depositing a sum of Rs.10,000=00 each in cash is quashed and set aside and instead they will have to submit the surety for the like amount;

(ii) further that instead of marking their presence before the Investigating Officer on every Monday between 10:00 a.m. and 12:00 noon, the applicants will be required to mark their presence before the Incharge P.S.O. of the concerned Police Station between 10:00 a.m. and 12:00 noon on 1st and 15th day of the month.

(iii) lastly, instead of obtaining prior permission of the Trial Court for leaving the limits of Kheda at Anand, they will have to obtain the permission of the concerned Incharge P.S.O. of the concerned Police Station.

This application is, therefore, partly allowed.
Rule is made absolute to the aforesaid extent.
Direct Service is permitted.

[AKSHAY H. MEHTA, J.]

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