

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 6004 of 2018**

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THAKOR HIRAJI SHANKARJI

Versus

STATE OF GUJARAT

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Appearance:

MR HARSHIT S TOLIA(2708) for the PETITIONER(s) No. 1

MR PARTH S TOLIA(5617) for the PETITIONER(s) No. 1

MS MOXA THAKKAR, APP (2) for the RESPONDENT(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE J.B.PARDIWALA

Date : 28/03/2018

ORAL ORDER

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with **C.R. No. I-44 of 2017** registered with the Sami Taluka Police Station, District: Patan for the offences punishable under Sections 302, 325, 504, 506(2) and 114 of the Indian Penal Code read with Section 135 of the G.P. Act.

2. I have heard Mr. Tolia, the learned counsel appearing for the applicant-accused. Ms. Moxa Thakkar, the learned APP for the State and Mr. Karan Vyas, the learned counsel who has appeared and opposed this application vehemently on behalf of the first informant.

3. The 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.

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.

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.

7. Following aspects are taken into consideration :

I. The Investigation is over. Charge-sheet has been filed.

II. Considering the statement of one Shaileshbhai Bhagwanjibhai Thakkar recorded by the police dated 03.09.2017, the presence of the applicant-accused and his participation in the alleged offence or incident is

highly doubtful. I am saying so not only keeping in mind the statement of Shaileshbhai Thakkar but also the medical evidence on record.

III. The applicant-accused is 75 years of age.

8. 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**.

9. 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.

10. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with **C.R. No. I-44 of 2017** registered with the Sami Taluka Police Station, District: Patan 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 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 once in a week on every Sunday between 11:00 a.m. and 2:00 p.m. till the conclusion of the trial;
- [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;

11. 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 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.

(J.B.PARDIWALA, J.)

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