

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 8375 of 2019**

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KALPESHKUMAR ISHWARBHAI THAKOR

Versus

STATE OF GUJARAT

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Appearance:

MR JOHNSEY P MACWAN(5498) for the Applicant(s) No. 1

MR CHINTAN DAVE, APP (2) for the Respondent(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI

Date : 30/04/2019

**ORAL ORDER**

1. **Rule.** Learned APP waives service of Rule on behalf of the respondent State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being III CR No.83/2019 registered with Petlad Police Station, Anand for offence under Sections 65(E), 116B, 81 and 83 of the Prohibition Act.
3. 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. 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. Learned Advocates appearing on behalf of the

respective parties do not press for further reasoned order.

6. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.
7. The Court has considered the following aspects:-
  - a) The applicant is in jail since 9.4.2019.
  - b) Investigation is concluded.
  - c) It is pointed out by the learned advocate for the applicant that co-accused Babubhai @ Lalo Jashbhai Thakor and Harishbhai Manibhai Patel are enlarged on bail by this Court and the role played by the applicant is almost similar.
  - d) In view of the aforesaid facts and circumstances, this Court is inclined to exercise the discretion in favour of the applicant.
8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra Vs. Central Bureau of Investigation**, reported in [2012] 1 SCC 40.
9. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being III CR No.83/2019 registered with Petlad Police

Station, Anand 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;
- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave the India without prior permission of the Sessions Judge concerned;
- [e] mark presence before the concerned Police Station between 1<sup>st</sup> to 10<sup>th</sup> day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
- [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;

10. 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.

11. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.
12. Rule is made absolute to the aforesaid extent. Direct service is permitted.

**(VIPUL M. PANCHOLI, J)**

VATSAL S. KOTECHEA