

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 8466 of 2019**

=====

KRUSHNABHAI @ KANUBHAI DEVABHAI GALCHAR

Versus

STATE OF GUJARAT

=====

Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1

MR RONAK RAVAL APP(2) for the Respondent(s) No. 1

MS SHIVANGI D VYAS(10117) for the Respondent(s) No. 1

=====

CORAM: **HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI****Date : 28/06/2019****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.I-22/2018 registered with Jodiya Police Station, Jamnagar for offence under Sections 143, 147, 148, 149, 302, 307, 325, 324, 323, 506(2) and 120(B) of the Indian Penal Code and Section 135(1) 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 as well as learned advocate for the complainant have opposed grant of regular bail looking to the nature and gravity of the offence.
4. Learned Advocates appearing on behalf of the respective parties do not press for further

reasoned order.

5. 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.
6. This Court has considered following aspects,
  - (a) the applicant is in jail since 03.12.2018;
  - (b) investigation is concluded and chargesheet is filed. In the FIR, the applicant is shown as accused no.16;
  - (c) it is contended by learned advocate for the applicant that the applicant is falsely implicated by the complainant in the FIR in question;
  - (d) learned advocate has referred to the history given by the deceased and his brother, Jilubhai before the concerned Doctor when the deceased was admitted. It is submitted that name of Ramesh Lakhman Pithmal, Rampura Hirpuram Mayur Lakhman Pithmal, Vipul Lakhman Pithmal, Rambhai Vank, Hirabhai Vank were given to the doctor and the said aspect is supported by the injury certificate issued by the concerned Doctor;
  - (e) I have also verified the investigation papers and PM Report and found that the cause of death is shown as "Died due to shock on account of head injury and its complication."

(f) it is required to be noted that none of the witnesses has stated that the present applicant has given blow to the deceased and the said aspect is verified by learned APP from the investigation papers as well as from the IO, who is present in the court;

Thus from the investigation papers and the material placed on record, I am inclined to consider the case of the applicant.

7. 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.

8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being C.R. No.I-22/2018 registered with Jodiya Police Station, Jamnagar 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;

[g] shall not enter into limits of Jodiya taluka for a period of six months except for marking presence as also for attending court proceedings;

9. 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.
10. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.
11. Rule is made absolute to the aforesaid extent. Direct service is permitted.

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

Gautam