

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 11745 of 2019**

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HASMUKHBHAI POPATBHAI MATHUKIYA

Versus

STATE OF GUJARAT

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Appearance:

VALIMOHAMMED PATHAN(6383) for the Applicant(s) No. 1

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

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CORAM: **HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI****Date : 31/07/2019****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.III-303 OF 2019 registered with Mandvi Police Station, Surat for offence under Sections 65(a)(e), 116(B), 81, 98(2) of the Prohibition Act and under Sections 465, 467, 468, 471, 120(b) of the I.P.C.

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 has 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 03.04.2019;
- (b) investigation is concluded and charge-sheet is filed;
- (c) case is triable by the Court of Magistrate;
- (d) Looking to overall facts and circumstances of the present case, 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.III-303 OF 2019 registered with Mandvi Police Station, Surat, 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] not enter District : Surat for a period of six months, except for marking presence and attending the Court proceedings;

[f] mark his presence before the concerned Police Station once in a month of every English calendar month for a period of 12 months between 11:00 a.m. and 2:00 p.m.;

[g] 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;

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.

KUMAR ALOK

(VIPUL M. PANCHOLI, J)