

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION NO. 6045 of 2020
With
CRIMINAL MISC.APPLICATION (FOR TEMPORARY BAIL) NO. 1 of 2020
In R/CRIMINAL MISC.APPLICATION NO. 6045 of 2020

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NATHABHAI JERAMBHAI VADHER
 Versus
 STATE OF GUJARAT

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Appearance:

MR VIRAT G POPAT(3710) for the Applicant(s) No. 1
 MR D M DEVNANI APP (2) for the Respondent(s) No. 1
 MR VICKY MEHTA ADVOCATE for the Respondent No.2

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CORAM:HONOURABLE MR.JUSTICE G.R.UDHWANI

Date : 30/04/2020
COMMON ORAL ORDER

1. Rule. Learned APP waives service. Heard learned advocate for the applicant and learned APP for the respondent-State and learned Counsel for the original complainant. Appearance of Mr. Vicky Mehta for the complainant be recorded and reply shall be taken on record.
2. This application is filed seeking bail under Section 439 of the Code of Criminal Procedure, 1973 in respect of the offences punishable under Sections 302, 324, 143, 147, 148, 149 and 120-B of the Indian Penal Code for which FIR came to be registered at C.R. No.A/11208002200050 of 2020 with Aji Dam Police Station, Rajkot City.
3. Considering the rival submissions, it appears that the petitioner is sought to be implicated as conspirator on the basis of the statements of two witnesses having been recorded after about one month of the incident wherein the witnesses are quoted saying that one or two Darbars should be done away with. The dispute is in relation to a piece of land which seems to have travelled upto the Apex Court.

The learned Counsel Mr. Vicky Mehta has drawn attention of this Court to the long drawn civil litigation which ended in the apex court as above. He has pointed out that eventually the contempt proceeding were initiated against the applicant who then agreed before the apex Court to handover the possession of the disputed property to the

complainant but did not abide by the said assurance and eventually conspired with the other accused not to handover the possession of the disputed land and if necessary to do away one or more Darbars. Learned counsel also drew attention of this Court to the statement of the two witnesses wherein aforesaid assertions are made.

Insofar as the civil litigations are concerned, in the opinion of this Court at this stage the occurrence therein would not be relevant for denial of the bail to the applicant and insofar as the statements implicating the applicant in a criminal conspiracy are concerned, the conspiracy would be required to be proved; however prima facie, the statements in the opinion of this Court at this stage are insufficient for denying the bail to the accused particularly when he was not present at the time of incident; nor is there any material; except the two statements as above, to connect him to the conspiracy and the role played by him in acting on the conspiracy. The age of the accused is 65 years. Thus, the case for admitting the petitioner to bail is made out.

4. Hence, this application is allowed and applicant is ordered to be released on bail in connection with C.R. No.A/11208002200050 of 2020 with Aji Dam Police Station, Rajkot City on executing a 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 his passport, if any, to the lower court within a week;
- (d) not leave the territory of India without prior permission of the Sessions Judge concerned;
- (e) mark presence in the concerned police station once in a calendar month.
- (f) furnish the present address of residence along with the proof to the Investigating Officer concerned and also to the trial court at the time of execution of the bond and shall indicate change of residential address if any to the trial court.

5. The competent authority will release the applicants only if he is not required in connection with any other offence for the time being.

5.1 If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to take appropriate action in the matter.

5.2 Bail bond to be executed before the lower court having jurisdiction to try the case.

5.3 It will be open for the concerned Court to delete, modify and/or relax any of the above conditions in accordance with law.

5.4 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 applicants on bail.

6. Rule made absolute to the aforesaid extent. Order may be served by Email.

No orders on application for temporary bail.

Songara / sompura

(G.R.UDHWANI, J)