

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION NO. 4044 of 2021

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RAHIMBHAI @ MUNNO HUSENBHAI JOKHIYA

Versus
STATE OF GUJARAT

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Appearance:

MR PRAVIN GONDALIYA(1974) for the Applicant(s) No. 1

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

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CORAM: **HONOURABLE MR. JUSTICE A.G.URAIZEE**

Date : 30/04/2021

ORAL ORDER

1. The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR being C.R.No.11190001200502 of 2020 registered with Barvala Police Station, for the offences under Sections 65(A)(E), 98(2), 116B and 81 of Prohibition Act.

2. Heard Mr. Pravin Gondaliya, learned advocate for the applicant and Mr. Ronak Raval, learned APP for the respondent State.

3. Mr. Gondaliya, learned advocate for the applicant submits that the investigation is over and chargesheet is filed. He submits that the applicant was driver of the vehicle from which the illicit liquor is seized. He submits that the applicant is neither the seller nor recipient of the illicit liquor. It is his further submission that the original accused who is alleged to be recipient of the illicit liquor is released on regular bail. He, therefore, submits that looking to the nature of allegation and evidence, the applicant may be enlarged on regular bail on appropriate conditions.

4. Mr. Ronak Raval, learned APP for the respondent has opposed this application. He submits that huge quantity of liquor was seized from the truck of the applicant who was driver. However, he submits that if the Court is inclined to release the applicant on bail, reasons may not be assigned on the merits of the case.

5. In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, I am of the opinion that without expressing any opinion on merits and arguments canvassed by the learned advocates on either side, this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an FIR being C.R.No.11190001200502 of 2020 registered with Barvala Police Station 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 learned Trial Court and subject to the conditions that the applicant 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 State of Gujarat without prior permission of

the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on every Monday of each English calendar month for a period of three months and thereafter, alternate Monday for a period of six months, between 11:00 a.m. and 2:00 p.m.;

[f] furnish latest and permanent 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;

6. 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 learned 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. At the trial, learned 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.

7. Rule is made absolute to the aforesaid extent. Registry is directed to send a copy of the order through email or Fax to the concerned trial Court.

Direct service is permitted.

SURESH SOLANKI

(A.G.URAIZEE, J)