

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL MISC.APPLICATION NO. 19384 of 2023  
(FOR REGULAR BAIL - AFTER CHARGESHEET)**

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ALI AKBAR MAMDRIM SAMA

Versus

STATE OF GUJARAT

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Appearance:

MR ABHAYKUMAR P SHAH(3093) for the Applicant(s) No. 1,2  
MS SHRUTI PATHAK APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**

**Date : 27/10/2023**

**ORAL ORDER**

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with the FIR being C.R. No.11205022230133/2023 registered with the Khavda Police Station, Kachchh for the offence punishable under Sections 307, 325, 324, 323, 294(b), 506(2), 143, 144, 147, 148 and 149 of the Indian Penal Code and under Section 135 of the Gujarat Police Act.
2. Learned advocate for the applicant submitted that the so-called incident has occurred on 18.06.2023 and FIR has been registered on 19.06.2023 and in connection with the same, the applicant no.1 is arrested on 20.06.2023, whereas the applicant no.2 is arrested on 02.07.2023 and the present application is filed after submission of the chargesheet and now the investigation is

completed. It is submitted that FIR is registered against 7 accused persons and out of them, 4 accused persons have already been enlarged on bail by the concerned Sessions Court. It is further submitted that as per the case of the prosecution, applicant no.1 has inflicted knife blow upon the body of the injured victim and the applicant no.2 has inflicted dhoka blow upon the abdomen part of the injured victim and thus, the blows inflicted by the applicants are on non-vital part of the body of the injured victim and the injured victim is already discharged from the hospital. It is, therefore, urged that considering the above facts, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. Learned APP for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is submitted that the present applicants are having antecedents and the role of the present applicants is clearly spelt-out from the compilation of the chargesheet papers. It is, therefore, urged that the present application may not be entertained.
4. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.
5. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the

role played by the applicant. It is found out from the record that the investigation is completed and after submission of the chargesheet, the present application is preferred. The injured victim is already discharged from the hospital and out of 7 accused, 4 accused persons, who have actively participated at the time of commission of crime and made kick and fist blows upon the injured victim, have already been enlarged on bail by the concerned Sessions Court. Further, the blows inflicted by the present applicants is upon non-vital part of the body of the victim. Thus considering the above facts, the present application deserves to be allowed.

6. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**, reported in [2012] 1 SCC 40 as well as in case of **Satender Kumar Antil v. Central Bureau of Investigation & Anr.** reported in (2022) 10 SCC 51.
7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, *prima facie*, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.
8. Hence, the present application is allowed. The applicant is ordered to be released on regular

bail in connection with the FIR being C.R. No.11205022230133/2023 registered with the Khavda Police Station, Kachchh on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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 State of Gujarat without prior permission of the Sessions Judge concerned;
- [e] mark presence before the concerned Police Station on alternate Monday 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;

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 concerned 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 observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.
11. The present application stands allowed accordingly. Direct service is permitted.

**(DIVYESH A. JOSHI, J.)**

Gautam