

HIGH COURT OF GUJARAT**UJJVAL GOVINDLAL VYAS (PETITION DISMISSED AS NOT PRESSED)***Versus***STATE OF GUJARAT****Date of Decision:** 02 May 2022**Citation:** 2022 LawSuit(Guj) 4348**Hon'ble Judges:** [A S Supehia](#)**Case Type:** Criminal Miscellaneous Application**Case No:** 4804 of 2022**Subject:** Criminal**Acts Referred:**[Indian Penal Code, 1860 Sec 408, Sec 420, Sec 468, Sec 465, Sec 471, Sec 467, Sec 120B, Sec 406](#)[Code Of Criminal Procedure, 1973 Sec 438](#)**Final Decision:** Application allowed**Advocates:** [Anshin Desai](#), [Vikas Nair](#), [Nimesh M Patel](#), [Pranit Nanavati](#), [Nanavati Associates](#), [Ronak Raval](#)**Cases Referred in (+):** 2**A S Supehia, J.****[1]** Heard the learned advocates for the respective parties.**[2]** By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant No.2-accused has prayed for bail in connection with the **FIR being C.R.No.11216001220087 of 2022 registered with Adalaj Police Station, District Gandhinagar** for the offences under Sections 406, 408, 420, 465, 467, 468, 471 and 120B of the Indian Penal Code, 1860 (IPC).**[3]** It is the case of the prosecution that the applicant No.1 was employed as a Sales Assistant in 1996 with Amul company. Since last 26 years, there has never been any complaint of any misdeed against him. The applicant No.2 is the proprietor of M.U. Carting firm, which is engaged in the service of providing trucks for transport of goods

and no complaint with regard to delayed delivery or non-receipt of good by any of the dealer or distributor has been raised. On 14.02.2022, the applicant No.1 was called to verify whether M.U. Carting is being run by the applicant No.2 or not. It is the case of the applicant that the officials of the company started pressurizing the applicant No.1 to make the payment of the amount, which was paid to the firm of the applicant No.2 in this entire period from 2010 to 2022.

[4] Learned senior advocate Mr.Anshin Desai for the applicant-original accused No.2 has submitted that the allegations levelled against the applicant No.2 is purely business transaction and do not invoke sense of criminality and the same are levelled to harass and coerce him to conduct business as per the terms of the first informant. It is submitted that the allegations under Sections 406, 408, 420, 465, 467, 468, 471 or 120B of the IPC will not get attracted since there is no embezzlement, entrustment, deceit, forgery, creation of forged documents, use of fake documents, or deceit of official duties. He has further submitted that pursuant to the order dated 13.04.2022, the applicant has filed an affidavit. The same is ordered to be taken on record. He has submitted that the applicant is ready and willing to pay the amount of Rs.1,25,00,000/- and she has already arranged the amount of Rs.67,00,000/- as per the affidavit and rest of the amount of Rs.58,00,000/- will be deposited within a period of three weeks.

4.1 Learned advocate for the applicant submitted that the nature of allegations are such for which custodial interrogation of the applicant at this stage is not necessary. He further submitted that the applicant will keep himself available during the course of investigation, as well as trial also and will not flee from justice.

4.2 Learned advocate for the applicant, on instructions, submitted that the applicant is ready and willing to abide by all the conditions, including imposition of conditions with regard to powers of investigating agency to file an application before the competent Court for his remand. He further submitted that upon filing of such application by the investigating agency, the right of the applicant accused to oppose such application on merits may be kept open. Learned advocate, therefore, submitted that considering the above facts, the applicant may be granted bail.

[5] On the other hand, the learned Additional Public Prosecutor appearing on behalf of the respondent State has opposed grant of bail looking to the nature and gravity of the offence.

[6] Learned advocate for the complainant has submitted that the applicant-original accused No.2 may be at least directed to pay 50% of the amount of Rs.2,00,00,000/-.

[7] 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, at this stage, I am inclined to grant bail to the applicant.

[8] This Court has considered following aspects;

(a) An amount of Rs.5,00,000/- is already apid by the applicant on 11.02.2012;

(b) An amount of Rs.12,00,000/- has been recovered by the Investigating Officer;

(c) Pursuant to the order dated 13.04.2022, the applicant-original accused No.2 has already deposited Rs.50,00,000/- before the trial Court and rest of the amount of Rs.58,00,000/- to be deposited within a period of three weeks;

(d) Prima facie considering the facts of the case, the custodial interrogation of the applicant is not necessary at this stage; Looking to the over all facts and circumstances of the present case, I am inclined to consider the case of the applicant.

[9] This Court has also taken into consideration the law laid down by the Apex Court in the cases of [Sushila Aggarwal vs. State \(Nct of Delhi\)](#), 2020 AIR(SC) 831 and [Siddharam Satlingappa Mhetre vs State of Maharashtra](#), 2011 AIR(SC) 312.

[10] In the result, the present application is allowed. The applicant-original accused No.2 is ordered to be released on bail in the event of her arrest in connection with **FIR being C.R.No.11216001220087 of 2022 registered with Adalaj Police Station, District Gandhinagar** on her executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of like amount on the following conditions that she :

(a) shall cooperate with the investigation and make herself available for interrogation whenever required;

(b) shall remain present at the concerned Police Station on 10.05.2022 between 11.00 a.m. and 2.00 p.m.;

(c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

(d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

(e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change her residence till the final disposal of the case till further orders;

(f) shall not leave India without the permission of the concerned trial court and if having passport shall deposit the same before the concerned trial court within a week.

(g) shall deposit an amount of Rs.1,30,00,000/-. Since she has already paid the amount of Rs.67,00,000/- as per the affidavit, rest of the amount of Rs.63,00,000/- shall be paid in equal installments within a period of 12 weeks, though she has agreed to pay within a period of three weeks.

[11] Despite this order, it would be open for the investigating agency to apply to the competent Magistrate, for police remand of the applicant, if he considers it proper and just and the Magistrate would decide if on merits. The applicant shall remain present before the concerned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the concerned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining the application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if, ultimately, granted, and the power of the concerned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this bail order.

[12] At the trial, the concerned trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

[13] The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Registry is directed to send a copy of this order to the concerned authority/court through Fax message, email and/or any other suitable electronic mode. Direct service is permitted.