HIGH COURT OF GUJARAT

AMIT MADHUKAR SANAP
V/S
STATE OF GUJARAT

Date of Decision: 04 January 2023

Citation: 2023 LawSuit(Guj) 62

Hon'ble Judges: Samir J Dave

Case Type: Criminal Miscellaneous Application

Case No: 10793 of 2022

Subject: Criminal

Acts Referred:

Indian Penal Code, 1860 Sec 34, Sec 420, Sec 114, Sec 409, Sec 468, Sec 465, Sec 471, Sec 120B
Code Of Criminal Procedure, 1973 Sec 438

Final Decision: Application disposed

Advocates: Nanavati Associates, L B Dabhi

Reference Cases:

Cases Referred in (+): 2

Judgement Text:-

Samir J Dave, J

[1] By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant original accused has prayed to release him on anticipatory bail in case of his arrest in connection with the FIR being C.R.No.11210015220088 of 2022 registered with DCB Police Station, District: Surat City for the offence punishable under Sections 420, 465, 468, 471, 120(B), 34, 114, 409 of the Indian Penal Code.

[2] Learned advocate for the applicant submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. Besides, the applicant is available during the course of investigation and will not flee from justice. In view of the above, the applicant may be granted anticipatory bail.

[3] Learned advocate for the applicant on instructions states 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 would further submit that upon filing of such application by the Investigating Agency, the right of applicant-accused to oppose such application on merits may be kept open. That, the applicant was a registered valuer and no allegation is made in the entire complaint against the present applicant having participated in any manner except for preparing the valuation report for the bank in the entire transaction for which allegations are made in the complaint.

[4] Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. That, the applicant is involved in the serious offence as alleged and therefore, no leniency view would be taken in favour of the applicant while releasing him on anticipatory bail. Ultimately, it was submitted by learned APP for the respondent-State to reject present application.

[5] I have considered the allegations leveled against the present applicant in the FIR and perused the papers of investigation and considered the role played by the applicant.

[6] Having heard the learned counseld for the parties and perusing the record of the case and taking into consideration the facts of the case, nature of allegations, role attributed to the accused and punishment prescribed for the alleged offences, without discussing the evidence in detail, at this stage, I am inclined to grant anticipatory bail to the applicant. This Court has also taken into consideration the law laid down by the Hon ble Apex Court in the case of Siddharam Satlingappa Mhetre v. State of Maharashtra

and Ors, 2011 1 SCC 694, wherein the Hon ble Apex Court reiterated the law laid down by the Constitutional Bench in the case of Shri Gurubaksh Singh Sibbia & Ors., reported in (1980)2 SCC 565.

[7] Learned counsel for the parties do not press for further reasoned order.

[8] In the result, the present application is allowed by directing that in the event of applicant herein being arrested pursuant to FIR being C.R.No.11210015220088 of 2022 registered with DCB Police Station, District: Surat City, the applicant shall be released on bail on furnishing a personal bond of Rs.10,000/- (Rupees Ten Thousands only) with one surety of like amount, on the following conditions:

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

(b) shall remain present at the concerned Police Station on 11.01.2023 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 his residence till the final disposal of the case or till further orders;

(f) shall not leave India without the permission of the Court and, if having passports shall surrender the same before the Trial Court within a week.

[9] Despite this order, it would be open for the Investigating Agency to file an application for police remand of the applicant to the competent Magistrate, if he thinks it just and

proper and learned Magistrate would decide it on merits. The applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining 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 learned 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 anticipatory bail order.

[10] At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court while enlarging the applicant on bail. The present application is disposed of accordingly. Rule is made absolute.