

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 5418 of 2023

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MUKESHBHAI DALSINGHBHAI CHAUHAN
Versus
STATE OF GUJARAT
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Appearance:
MR BB NAIK, SR. ADVOCATE WITH MR EKANT G AHUJA(5323) for the
Applicant(s) No. 1
MR MITESH AMIN, PP WITH MS MONALI BHATT, APP for the
Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE SAMIR J. DAVE

Date : 04/05/2023

ORAL ORDER

1. The present successive bail 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. I-11189004222003 OF 2022 registered with Morbi City “B” Division Police Station, District Morbi for the offence punishable under sEctions 304, 308, 336, 337 and 114 of the Indian Penal Code.

2. Learned Senior Advocate Mr. BB Naik for the applicant submits that considering the nature of allegations, role attributed to the applicant, the applicant may be enlarged on regular bail by imposing suitable conditions. That, earlier the applicant has approached this court by way of Criminal Misc.

Application No. 22804 of 2022 with a request to release him on bail but vide order dated 02.01.2023, he was permitted to withdraw such application with a liberty approach competent court after filing of the charge sheet. That, investigation of the present offence has been completed and the investigating officer has filed charge sheet against the present applicant.

3. It was further submitted by learned senior advocate for the applicant that applicant was the security guard hired by the company. That, on perusal of the layout it appears that one had to collect ticket from the booth and then go on the bridge so no one can enter the bridge without collecting the ticket once ticket is collected there was no need to check whether one has purchased the ticket or not. Thus, it was the duty of the applicant to see that people are maintained proper line in front to the ticket collecting booth so that no chances are created nearby the booth and if a proper line is maintained then people can smoothly collect the ticket and move on to the bridge. That the conduct of the applicant jumping in the river and trying to save people at the time of the incident wherein applicant has also received injuries at the time of incident is also required to be considered. Ultimately, it was requested by learned Senior Advocate for the applicant to allow present application.

4. Learned 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 bail. That, the applicant was security guard engaged by the company without any training or experience and it was the duty of the security guard that people may not gather at one place and prevent them to rush towards similar place. That, the applicant has not controlled the crowd and thereby, it appears that the applicant has shown negligency in his duty. Ultimately, it was submitted by learned PP for the respondent-State to reject present application.

5. Having heard learned Senior Advocate for the applicant and learned PP for the respondent-State as well as papers produced on record, it appears that earlier the applicant has approached this court by way of Criminal Misc. Application No. 22804 of 2022 with a request to release him on bail but vide order dated 02.01.2023, he was permitted to withdraw such application with a liberty approach competent court after filing of the charge sheet. It appears that the investigation is over against the present applicant and charge-sheet has been filed by the investigating officer against the

present applicant. Since trial will take its own time to conclude, the presence of the applicant is not required in judicial custody as well as the applicant was the security guard hired by the company and therefore, I am of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Thus, in the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, the prayer of the applicant requires consideration.

6. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an C.R.No. I-11189004222003 OF 2022 registered with Morbi City “B” Division Police Station, District Morbi 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 territory of India without prior permission of the Sessions Judge concerned;

[e] 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 the learned Sessions Court concerned;

7. 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.

Rule is made absolute to the aforesaid extent.

Direct service is permitted.