

GJVL010016642019



Presented on : 29-04-2019
Registered on : 29-04-2019
Decided on : 02-05-2019
Duration : 0Y 0M 4D

IN THE COURT OF ADDL. DISTRICT & SESSIONS JUDGE
AT : VALSAD
(Presided Over by M.R.SHAH)

CRMA S/1112/2019
Exhibit No. _____

Applicant: Sohan @ Shani Kishorbhai Natubhai Patel
Address-Chalthana, Patichal, Ta-Palsana, Dist-Surat.

Versus

Opponent: State Of Gujarat
Address: DGP Office, District Court, Valsad.

Through : Police Station Officer DUNGARA POLICE
STATION-VALSAD DISTRICT

Mr. H.S.Desai, Learned Advocate for the Applicant.
Mr. A.R. Tripathi, Learned DGP for the Opponent.

::JUDGMENT::

1. The present application has been preferred by the present applicant for releasing him on bail U/s 439 of Cr.P.C., in connection with the offence registered in Dungara Police Station vide III-CR No.141/2017 U/s 65E,81,98(2) of Prohibition Act,I have gone through the application wherein, it has been stated that the applicant has been arrested by the Dungara Police Station for the said offence and the applicant has not committed any offence and

he is innocent and having family and there is no case against him so he has requested to release him on bail on suitable terms and conditions.

2. On service of notice to the State Ld. DGP Mr. A.R. Tripathi, has appeared on behalf of the State and he has submitted the affidavit of I/O and also the papers of Investigation wherein, the I/O has opposed the grant of bail to the present applicant and has submitted to reject the bail application.
3. I have heard, the Ld. Advocate of both the parties wherein, the Ld. Advocate Mr. H.S.Desai, has submitted that the applicant has not committed any offence and the offence is not punishable with death or imprisonment for life and they are ready to abide by all the terms and conditions which the Court may deem fit for releasing him on bail.
4. Learned Ld. DGP Mr. A.R. Tripathi, has submitted that there is a prima facie case against the accused hence his bail is required to be rejected.
5. The applicant found in illegal possession of 2400 bottles of Whiskey and Tin of bears worth **Rs.1,20,000/-** without any pass or permit. Therefore, the Offence is registered with Dungara Police Station vide III-CR No.141/2017, on 03/12/2017 and Offence is punishable U/s 65E,81,98(2) of the Prohibition Act.
6. I have gone through, the papers the Investigation and I have also gone through the affidavit of I/O. The offence which is registered against the present applicant is not punishable with death or imprisonment for life.

7. At this juncture, I would like to refer the principles laid down by the Hon'ble Supreme Court with respect to the grant of bail. **In case of Sanjay Chandra Vs. CBI reported in 2012, AIR (Supreme Court) - 830**, It has been observed that " the object of bail is to secure the appearance of the accused person at his Trial by reasonable amount on bail. The object of bail is neither punitive nor preventative.
8. **In the case of Guru Charan Singh Vs. State of (Delhi Administration) reported in 1978 (1) SCC page-118** the Hon'ble Supreme Court observed that " in other non-bailable cases the Court will exercise its judicial discretion in favour of granting bail subject to sub- Section(3) of Section 437 of Cr.P.C, if it deems necessary to act under it. Unless exceptional circumstances, are brought to the notice of the Court which may defeat proper investigation and a fair Trial, the Court will not decline to grant the bail to a person who is not the accused of Offence punishable with death or imprisonment for life. **In case of State of Rajasthan Vs. Balchand reported in AIR 1977 Supreme Court page-2447**, it has been observed " the basic rule may perhaps be as bail & not jail, except where there are circumstances suggestive of fleeing for justice or thwarting the course of justice or creating other travels in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the court. **In case of State through CBI Vs. Amarmani Tripathi reported in 2005(8) SCC page - 21**) it has been observed that the matters which are required to be considered in an application for bail are
 1. Whether there is any prima facie or reasonable ground to believe that the accused have committed the offence.

2. Nature and gravity of charge.
3. Severity of punishment in the event of conviction.
4. Danger of the accused absconding or fleeing, if released on bail
5. Character, behavior, means, position and standing of the accused.
6. Likelihood, of the offence being repeated.
7. Reasonable apprehension of the witnesses being tempered with, and Danger, of course, of justice being thwarted by grant of bail.

Looking to the above observations of Hon'ble Supreme Court and the personal liberty of the accused and looking to the present application and the offence which is registered against the present applicant/accused in which the punishment is not of death or life imprisonment, moreover nothing has been shown from the papers of investigation that the accused will temper with the evidence of investigation. Since the applicant is not the local resident of Valsad District and hence to secure his presence during the trial it is justifiable to have the ready solvent surety. Keeping in mind this aspect and the provisions of law, I pass the following order.

::ORDER::

The application of the applicant is allowed and the applicant named, **Sohan @ Shani Kishorbhai Natubhai Patel**, is released on bail on furnishing ready solvent surety for the amount of **Rs.25,000/- (Twenty Five Thousand Only)** and the applicant shall produce the ready solvent surety and the personal bond of the like amount in the Offence which is registered with Dungara Police Station III-CR Registration No.141/2017 U/s 65E,81,98(2) of

Prohibition Act on following terms and conditions:-

Condition

- i. The applicant shall submit his Passport before the lower Court within 3 days from the date of his release and if he does not possess any Passport then he shall file an affidavit to that effect.
- ii. The applicant shall not leave the Territory of India without prior permission of the Trial Court.
- iii. The applicant will not act in a manner which is injurious to the interest of prosecution.
- iv. The applicant/accused shall not indulge himself in any such kind of other offences and follow the law and order.
- v. Bail to be furnished before the Lower Court.
- vi. Yadi be sent accordingly.

Pronounced in Open Court **to-day on 2nd Day of May, 2019.**

Date: 02.05.2019

(MAMTABEN RAMANBHAI SHAH)
Additional Sessions Judge
Unique ID Code No. (GJ-00446)

Dictated on : 02.05.2019
Transcribed on : 02.05.2019
Checked on : 02.05.2019
Signed on : 02.05.2019

(MAMTABEN RAMANBHAI SHAH)
Additional Sessions Judge
Unique ID Code No. (GJ-00446)