

Criminal Misc. Application No. 92/2023 ORDER BELOW BAIL
APPLICATION

ANKLAV POLICE STATION (CRIME REGISTER
NO .11215003220443/2022 SEC 379,114 OF IPC ACT.

1. Heard the Learned counsel Mr. A.S Vhora for accused, Investigation Officer N.P Chauhan, and the Learned Assistant Public Prosecutor Mr. Raval for the state, and consider the relevant documents produced before this court.
2. The Learned advocate of accused argued that the said accused is residing at the give and address with his family and there is no chance to flee away and appear before the court . If the accused will remain in the custody then it would cause serious effect upon the family. Moreover the accused is falsely implicated in this crime and the alleged person is not involved in this crime as alleged .The main purpose of the bail to honour the fundamental right of liberty and life of the person and can be granted on the considering the factor that the presence of the accused will be secure during the trial or not. The alleged offence is not punishable for the life imprisonment or the death penalty ,therefore the court has jurisdiction to release the accused on bail.The Learned advocate prayed to grant bail as accused will respect and comply with all the conditions awarded by this Hon'ble court.
3. On the other hand the Learned Assistant Public Prosecutor for the state and the investigation officer has argued that the accused is involve in the serious crime and the modus operandi of the accused to commit offence has to be taken in to account. Further more the accused is involved in many offences of like nature. Therefore prayed to reject the bail application
4. After considering the factual matrix of the case, relevant documents and arguments of all the parties, this court is opined here that the accused is

incriminated with the serious offences punishable Sec 379 & 114 OF IPC . and . Furthermore the argument as falsely incriminated is not tenable at this stage as the matter is at infant stage of the investigation and the participation cannot be decided until the evidences produced at trial. Furthermore, the question of guilt or innocence cannot be decided at this stage. The alleged offence is against the public safety and against the property of people and no one has right to violate the established law of land for individual safety ,However the law provides the ways to individual safety but it is duty of the individual to follow the established principles of law and honour the law of land. But in this case it is prima facie shows that the accused has not honour that established principles and process of Law as alleged.

5. However, as per the provision of the Sec 437 it is the discretion of the court to grant the bail application and except as provided under the same provision as the word 'may 'is used in the statute .However this discretion ought to be exercised judiciously and in interest of the justice. As per jurisprudential definition of 'Justice'-Justice means the balancing of two conflicting interest This court is in the view that the judiciousness of the discretion may be differ accordance with the circumstances and the involvement of the concerned accused in the crime. However this court is not going to decide the case on the merit as this matter is on the infant stage. Hence after considering the record, the commission of the culpable act in which the accused is alleged to involve, is serious crime and has serious effect on the society and against the public safety. Therefore this court is in the view of the fact that in this case the societal interest is more heavy and overriding the individual interest, and in favour of the society in this present case However the pious constitution of India guaranteed the fundamental right of the life and liberty and uncountable protection but it must be enjoyed within the four corner of this pious document. Moreover this court, without going into the merit, The jurisprudential balance of

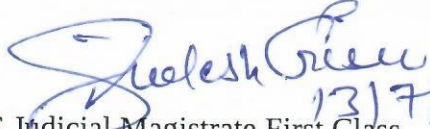
two conflicting, societal and personal interest should be balanced in administration of justice. After considering seriousness of the alleged offences, effect of the alleged offence upon the society which create insecurity among the people and the antecedent of the accused as involved in other offences which are register as Crime reg. no. 11215001230011/2023 Under Section 379 Of IPC Act Anand Rural police station & Crime reg. no. 112150021220538/2022 Under Section 379 Of IPC Act Petlad Town police station & Crime reg. no. 11215003220515/2022 Under Section 379 Of IPC Act Anklav police station and the modus operandi for commision of alleged offence and other relevant documents this court is in view that the above said jurisprudential balance is in the favour of the society and against the individual and personal interest and societal interest is overriding the individual interest .

6. Hence after considering seriousness of the alleged offences, and other relevant documents and circumstances in the present case and a per the above reason this court is in the view of that the prayed remedy sought through this bail application is not ex-debitio-justitive, therefore this court is hereby seems justified to pass the following order in ex-debitio-justitiae ,

ORDER

The Bail Application of accused Mr. Inayatsa @ Bablu Rehmansa Diwan (Age 30) Res. Indira Nagari Anand is hereby Rejected.

Signed and Pronounced in open court Today on 13 th day of July 2023


13/7/23
I/C Judicial Magistrate First Class,
Anklav, Anand