IN THE COURT OF
PRINCIPAL DISTRICT & SESSIONS JUDGE
AHMEDABAD (RURAL) @ AHMEDABAD.

SESSIONS CASE NO. 283 OF 2022

State of Gujarat …..Complainant

VERSUS

Rajendrakumar Pravinchandra Dasadiya ….Applicant/Accused No.23

Sub: Application seeking discharge from the offence.
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Appearance:
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Mr.J.P. Sukhwani Ld. Advocate for the Applicant/accused
Mr.P.M.Trivedi, Learned PP for Opponent-State.
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ORDER BELOW DISCHARGE APPLICATION EXH.308

1. The applicant/accused has preferred this application U/s 227 of Cr.P.C. seeking discharge in connection with offence registered vide FIR being C.R. No. I 11192018220218/2022 with Dhandhuka Police Station, Dist: Ahmedabad for the offence punishable u/s 304, 308, 284, 201, 202 118, 114, 34, 328, 120B of IPC, Sec. 65A, 79, 81, 83, 67-1A of Gujarat Prohibition Act.

2. Ld. Advocate Mr. J.P. Sukhwani on behalf of the applicant – accused No.23 Rajendrakumar Pravinchandra Dasadiya submits that the accused is chargesheeted for the offences u/s 304, 308, 284, 201, 202

118, 114, 34, 328, 120B of IPC, Sec. 65A, 79, 81, 83, 67-1A of Prohibition Act. He submits that applicant is Manager of M/s Amos Corporation, a company engaged in business of methyl alcohol bottling job work. The applicant is granted anticipatory bail by Hon'ble High Court of Gujarat vide order dt. 15/9/2022 in Cri.Misc.Appl. No.15771/2022 and allied matters. With regard to offence u/s 302 of IPC C Summary was filed by the I.O. in the offence. Looking to the entire chargesheet the allegations against the applicant is that he is Manager of Amos Corporation and therefore, he is arraigned as accused. Theft of methyl alcohol was committed by accused no.15 and his accomplices from the company and after that spurious liquor was made by accused no.15 and his known persons and then sold it. No role of theft or sell of is attributed towards the present applicant/accused. There is no iota of evidence that applicant/accused committed theft and made spurious liquor and sold it to other in collusion with co-accused no.15 Jayesh Khavadiya. The co-accused No.15 in his statement u/s 164 of Cr.P.C. before Ld. Magistrate has admitted the entire responsibility of theft of methyl alcohol, preparing liquor and selling it. As per the prosecution case the stock of methyl alcohol was short and there was email from Finar company about shortage of stock and so the management and applicant/accused is responsible. However, as per statement of Laghdir

Vashrambhai Solanki of Finar company after checking all stock was found 'ok' and therefore, there was no shortage of stock and said contention of the prosecution is false. It is submitted that co-accused Directors of the company are discharged. Applicant/accused is Manager of the company and at the most he can be said to be negligent in his duty but cannot be said to have committed offence. It is submitted that for breach of licence condition there is provision for separate punishment but it cannot be said that applicant/accused has committed criminal offence. Looking to the entire chargesheet the role of the applicant/accused is same to that of Director of the company. It is submitted that looking to the entire chargesheet the applicant is not directly or indirectly or remotely involved in the offence. He also relied upon written submissions (Exh.331) and urged to discharge the applicant/accused from the offence.

3. Ld Public Prosecutor Mr. P.M. Trivedi has opposed the discharge application. He submits that the accused persons sold spurious liquor which resulted in to death of 14 persons and 60 got injured. The applicant is Manager in Amos Corporation for last 23 years whose work is of bottling of methyl alcohol. After the incident the company is sealed and its license is suspended It is submitted that it is the duty of the applicant/accused to do entire administration and supervision of day to day affairs of the company. Methyl alcohol is highly poisonous substance

and it is sufficient to cause death if 10ml to 30 ml is consumed, therefore utmost care and supervision is required to see that not even a drop of methyl alcohol goes out of the company. In the present case theft of about 600 ltrs methyl alcohol is committed. It is submitted that without there being any intentional conduct and or involvement on the part of the applicant/accused such large amount of methyl alcohol cannot be taken out of the company and though there was shortage of such large quantity, the applicant/accused has not taken any steps and loss of stock is not taken care of. It is submitted that as per the license condition from 9.00pm. to 6.00 a.m. the licensed place are to be kept closed and there is no permission of any residence in the licensed place but alongwith the main accused other 10 persons (laborers) were using the place for residence purpose and so this theft has occurred. The applicant is Manager of the company and he was duty bound and responsible to follow and see that all the rules are followed by the company. Directors are discharged by Hon'ble High Court of Gujarat from the offence but it is not held that there is no vicarious liability of the Manager. He has placed reliance on the affidavit of I.O. (Exh.316), chargesheet & case papers and has urged the court to reject the discharge application.

4. Heard Ld. Advocate for the applicant/accused and Ld.P.P on behalf of the prosecution. The Court has gone through the discharge

application, chargesheet & case papers and affidavit of the I.O. To decide the discharge application it would be relevant to refer the provision and case law which are pertinent to decide discharge application. It would be relevant to quote Section 227 of Cr.PC for the ready reference.

> *"227. Discharge. If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing."*

5. It would also relevant to consider the principles laid down by the Hon'ble Apex Court in the matter titled as **Union of India Vs. Prafulla Kumar Samal & Ors 1979 (3) SCC 4** wherein, the Hon'ble Apex Court had elaborately discussed the scope of Section 227 Cr.PC in para 7 and have summed up the principles while considering discharge application in para 10 as under:

> *"7. Section 227 of the Code runs thus:*
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> *"If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing." The words "not sufficient ground for proceeding against the accused" clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is*

not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him."

"10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

6. The applicant/accused is charge for the offence u/s 304, 308, 284, 201, 202 118, 114, 34, 328, 120B of IPC, Sec. 65A, 79, 81, 83, 67-1A of Gujarat Prohibition Act. As per the prosecution case, applicant being Manager in M/s Amos Corporation, a company engaged in job work of bottling methyl alcohol, was deliberately negligent in observing due compliance of the rules of License under the Prohibition Act which in turn resulted in to leeway to co-accused Jayesh @ Raju Khavadiya to sell methyl alcohol to be used to prepare spurious country made liquor to other accused indulged in the said business of country made liquor, which was consumed by their customers which resulted in to death of 14 persons and 60 got injured. It appears that applicant is Manager in Amos Corporation for last 23 years. Being Manager the duty of the applicant/accused is to do entire administration and supervision of day to day affairs of the company. Methyl alcohol is considered as the

hazardous, highly poisonous substance and is sufficient to cause death if consumed even in small quantity of 10ml to 30 ml. The company handling such material has to follow prescribed norms and licence is issued to the company subject to conditions/rules to be followed. As per the investigation theft of about 600 Ltrs of Methyl Alcohol was committed by co-accused Jayesh Khavadiya and was sold to co-accused persons which was used for preparing spurious country made liquor. As per the investigation such a large quantity was taken out of the company and though there was shortage of the stock the applicant being Manager has not taken any steps and loss/shortage is not taken care of. It reveals during investigation that 10 persons (laborers) alongwith the main accused person Jayeshbhai were using the licensed placed for residence purpose against the rules and the said fact was within the knowledge of the applicant and there is no material on record of applicant having taken any steps in this regard. It reveals that the Bill and Challan was prepared by the applicant and sent to co-accused Jayeshbhai and on the basis of the same the material was taken out of the company. Further, as per the investigation, discrepancy in the stock was raised by Finar company and applicant used to reply the query raised by Finar Company with regard to the shortage in stock. As per the I.O. on search / checking by Prohibition department on 30/7/2022 there was excess stock of 737 ltrs of Methyl alcohol. From the material available on record it prima-facie reveals that applicant had knowledge about the shortage of stock and intention on the part of the co-accused Jayesh Khavadiya. As per the I.O. there was CCTV camera or security to keep check on movement of the people and Methyl alcohol in and out of the company. The contention that at the most applicant can be said negligent in supervising as per his role as Manager is not acceptable at this stage, as evidence in the chargesheet would prima-facie reveals involvement in commission of offence in connivance with the co-accused persons and knowingly permitted the co-accused persons to remove huge quantity of Methyl alcohol which was used for making spurious liquor and thereafter by consuming the said spurious liquor 14 persons died and 60 got injured. The applicant has relied upon the order of the Hon'ble High Court of Gujarat in Cri. Revision Application (against order passed by subordinate Court) No.805/2024 with No.1526/2023 and No.806/2024. In the said order, the Hon'ble High Court of Gujarat has discussed elaborately with regard to applicability of Section 304 of IPC against the revisionist who are Directors of the company, but the applicant herein is Manager of the company who was prima-facie having direct control over quantity of Methyl alcohol stored in the company and looking to the role of the applicant/accused in the charge-sheet and the evidence collected by investigating agency during the course of investigation prima-facie makes out a case to put the applicant accused for trial.

7. In view of facts and circumstances noted hereinabove this Court is of the opinion that this is not a fit case where the applicant-accused can get discharge from the offences leveled against him as there is prima facie case against the applicant-accused, hence, following final order is passed in the interest of justice:-

-:F I N A L O R D E R :-

1. Present Application for discharge (Exh.308) filed by Rajendrakumar Pravinchandra Dasadiya (Accused No.23) is hereby **rejected**.

Pronounced in the open Court today on this **9th day of April, 2025.**

(Kamal M. Sojitra)
Principal District & Sessions Judge,
Ahmedabad (Rural)
UIC No.GJ01494

vsb