

## **ORDER BELOW BAIL APPLICATION IN Cr.M.A No 237/2024**

Perused the record of the case and read the papers present on the record. Heard the accused advocate and the Ld. Advocate of the complainant. Looking to the record, it appears that the accused alleged to have committed the offence punishable under Section 392 & 114 of the IPC and charge sheeted in CC NO 11/2018 and stage being Judgment.

The Ld. Advocate on the behalf of accused argued that the present accused couldn't come to the court and he couldn't come to the court as Accused no 1 being the government employee & he was not aware of the date and he resides in kutch where there was heavy rain and couldn't come in the court & the other accused no 3 also gives the same and Thus leniency be done on him. He being the senior member of the family is harassed as he is the sole bread butter earner of the family. He has further argued that the accused is ready and willing to fulfill every condition as laid down by Court and he is local resident and his presence could be secured during trial and the matter is on the stage of the Judgment on 19/09/2024. The accused will not flee from the trial and he will regularly present during the trial from now on. Hence, prayed for grant of bail to the present accused.

Learned advocate for State; APP satish mevada has Opposed the bail application on the ground that accused never appeared before the court not a single time when the matter is on the judgement and 3 dates passed in but they never came in and after FS it was their duty & thus NBW was issued against him. Accused was not appearing for regularly for more than 45 days clearly shows the intention of the court that he was avoiding the court and thus bail application be rejected as this is not fit case of grant of bail on the ground given in bail application and argued in the court today.

Considering the record, it appear that the accused is alleged to have committed the offence punishable under section 392 & 114 of the IPC . Perusing the complaint, & documents available on the record, it is crystal clear that accused never came before the

court for a single time after FS was taken in the case . and the matter came on the judgment and last 3 dates he didn't appeared or there was no Application which could explain the real reason why he was absent and one time there was casual application of exemption however which was rejected by the court and NBW warrant was issued against him as the matter was on the stage of the Warrant and thus for next 3 dates he didn't remained present which breaches the conditions of the bail. It would be worthy to mention that accused no 1 is a government employee in GETCO and he cant take excuse of not knowing the dates or not complying the courts order as he got in his work and he is a well educated person who has the responsibility of the building the Nation's future block while laying the foundation for the Electricity and other accused has not given the reason for the absence and that too continuously for the 46 days from 01/08/2024 as matter was posted for the judgment on 18/07/2024 and thus he knew about the dates in the case and his advocate also who had completed his arguments on that day. Matter got posted for the Judgment on 01/08/2024 when there was no rain issue and they didn't turned up thus his reasoning of not coming in the court doesn't stand also there is no reason for the absence on 01/08/2024, 22/08/2024 & 29/08/2024 which is not acceptable and accuse cant take the court for granted . It prima-facie gives out that he has breached the terms and conditions of the bail granted by the court and thus this court doesn't have the confidence in accused words that he will now comply with the court's order or would do the compliance of the same. He has not given the concrete reasons for not coming to the court nor any satisfying reasons which can prove that he was not avoiding the court or defying court's order. Also the very fact that he never came to the court for last 45 days and that too when the matter is posted for the Judgment and is the fact that is not acceptable as if given on that basis then every accused will have license to not to come to the court and comply with the court's order. It was his duty to come to the court and inform about his issues and seeks temporary exemption which he didn't. The matter kept on pending for the Judgment from Infact his NBW couldn't be executed as per the address given and the surety was also not served. His personal Bond of the previous bail also remains unsatisfied which also needs to be paid which he should pay to the court as he had jumped the bail and thus NBW was issued against him. Thus both accused are directed to pay

the amount of Rs 25000/- each which he has given the personal bond initially when they were given the bail in the case. There are no property Details of him on the record which can compel him to come the court and court can easily proceed with Section 82,83 Of the Cr.P.C, 1973. Thus it cant be said his presence could be secured in the near future during the trial. Therefore, considering the nature of offence and quantum of punishment provided for the offence and keeping in mind the intention of legislature, following Order is hereby passed in the interest of Justice.

### **ORDER**

The present bail application of accused BHagirath singh Jhala and TP Zala is hereby rejected.

Pronounced in open Court Today on September 18<sup>th</sup> 2024 under my seal and signature.

Date. 18/09/2024

Place: Limbdi

Vikas Seoul  
Additional Judicial Magistrate F.C.  
Limbdi, Surendranagar.  
UI Code-GJ01357