

IN THE COURT OF 9th ADDITIONAL SESSIONS JUDGE,
SURAT.

Criminal Misc. Application No.5632 of 2021.

Ex. No.- ____

Applicant/Accused.

Manoj Kailashbhai Nishad

Age : 23, Occupation : Labour work

Presently Residing at : Apartment prepared in plot no.27 to 30

Near Pipodara GIDC Vegetable Market,

Surat.

Permanently resident : Village - Tarandera

Tal. : Chandpur, District : Fatehpur (U.P.)

Presently at : Central Jail, Lajpore, Surat.

VERSUS

Opponent:- **State of Gujarat.**

Subject:- Regular Bail application under section 439 of The
Criminal Procedure Code.

Appearance:-

Mr. A. B. Tamboli Ld. Advocate for the Applicant

Mr. N. L. Sukhadwala Ld. DGP for the State of Gujarat.

:- JUDGMENT:-

1. The present application is preferred by the Applicant/accused u/s 439 of Criminal .P.C. to get released him on regular bail, in connection with FIR registered before Mahidharpura Police Station, Surat vide C. R. No. 1121003020 1546 /2021, for the offences punishable u/s 379(a)(3) & 114 of Indian Penal Code. Therefore, the present applicant has arrested in the said offence, sent him in judicial custody after completion of remand of the applicant and since he is in the judicial custody, hence, he had filed the present application for Regular bail.

2. FIR was lodged on 17-09-2021 against the Applicant that he is involved in the offence of robbery of mobile. The complainant was stated in the complaint that on 15/09/2021 in the evening time, the complainant was going towards his home and when he reached at Laldarwaja on his Motorcycle, from back side, two unknown persons aged around 20 to 30 years ridden on the Motor cycle came there and they suddenly snatched away his oppo company's crystal black colour Mobile Phone. It is further stated by him that all the

applicants were escaped on their motor cycle. Hence, the complainant has lodged complaint against the three unknown persons.

3. Ld. Advocate for the Applicant submitted that the Applicant is an innocent person and has not committed any offence as alleged in the FIR. Ld. Advocate of the applicant further submitted, present accused had wrongly and intentionally dragged in to undetected offence and present accused was arrested by the police because of suspicious ground. Nothing is found from the accused during police custody. There is no any cogent evidence against the accused. The present accused is doing labour work and maintaining his family. It is further stated that the said complaint is filed against unknown person and no name of the present accused is shown in the FIR. Further, the accused is readily available for the trial. Looking to the pendency of the cases in the court trial is likely to take a long time. Under these circumstances, Learned Advocate of the applicant submitted to enlarge the Applicant on Regular bail on conditions deemed fit by the Court.

4. Ld. DGP Mr. N. L. Sukhadwala for the State of Gujarat, opposed the bail application and submitted that the accused is involved in the said offence. Ld. DGP has Further submitted that chargesheet in the said case is still not filed and investigation is going on in primary stage, hence, it is not reliable to release the accused on bail. Further, the accused is permanent resident of U.P., hence, there are all chance to flee away of him and other accused are still absconding, therefore, it is not worthy to release the accused on bail. Ld. DGP relied on the affidavit filed by I.O. and urged to dismiss the present regular bail application.

5. Heard Ld. Advocate for the Applicant and Ld. DGP for the State. Perused the contents of Regular bail application as well as read the affidavit of I.O.at Ex-4. Considered the submissions made on behalf of State.

6. Thus, considering the FIR and Police Papers and considering the nature of allegations against the Applicant and role attributed to the present Applicant and peruse the facts of the present case, present applicant is involved in the act of

purchasing the stolen mobile. It is also required to note that stole mobile is already recovered. The police agency roped the applicant in undetected offence. The offence is triable by JMFC Court. The applicant is only bread earner person of the family, he is readily available for the investigation. Looking to the pendency of the cases in the Lower Court, trial is likely to take a long time, hence, applicant must prevent from pre-trial punishment. Further, as per affidavit of IO, the applicant has no any criminal record. Under these circumstances, it is desirable to put some stringent condition against the applicant to prevent this type of illegal activities, this Court is of the opinion that court can exercise the discretion and enlarge the applicant on regular bail. Hence, I pass the following final order.

:- ORDER :-

The bail application preferred by the applicant/accused is allowed. Applicant/ accused namely **Manoj Kailashbhai Nishad** is hereby ordered to be released on bail in connection with offence registered with **Mahidharpura Police Station, Surat vide C. R. No. 11210030201546 /2021**, on his executing a Personal Bond of Rs.20,000/- (Rupees Twenty Thousand only) along with one Surety of the like amount to the

satisfaction of the Trial Court, on following conditions ::

Conditions :

1. The applicant/accused shall mark his presence before concerned Police Station on every 15th day of English Calender month between 10:00 AM to 2:00 PM, till the filling of charge-sheet.
 2. The applicant shall furnish residential address with proof before the Ld. Trial Court as well as concerned police station and the applicant shall not change his residential premises without prior permission of the Trial Court till the pendency of Trial.
 3. The applicant/ accused shall deposit passport with the concerned Lower Court, within a period of seven days of this Order, and if the applicant does not possess passport, an affidavit to that effect shall be filed within a period of seven days before the concerned Lower court.
 4. The applicant/ accused shall not act in any manner prejudicial to the case of prosecution.
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5. Without prior permission of Trial Court, the applicant/ accused shall not leave the boundaries of Gujarat State.

6. In case of breach of any of the above conditions, the bail shall stand automatically canceled.

Bail & Bond be produced before the concerned Trial Court.

Yadi be sent to the Trial Court as well as concerned police station.

Signed and pronounced today in open Court today on this 30th September, 2021.

Date : 30/09/2021
Surat

(**Amrut H. Dhamani**)
9th Additional Sessions Judge,
Surat. UID :GJ00518.
