



IN THE COURT OF 5TH ADDITIONAL DISTRICT & SESSIONS JUDGE,
AHMEDABAD (RURAL) AT MIRZAPUR, AHMEDABAD

Criminal Misc. (Regular) Application **No. 3122 of 2022**

Hitesh alias Batko s/o Hajariram Thakor

Aged 30 years, Hindu, Occupation Driving,
Residing at Kabalivas, Village: Mandar,
Taluka Revdar, District Sirohi,
Rajasthan

... Applicant

VERSUS

THE STATE OF GUJARAT

... Opponent

Appearance:-

Learned Counsel Mr. R.P. Tamaychi for the Applicant
Learned PP Mr. J.C. Patel for the State - Opponent

**Subject:- Application seeking to enlarge on Regular bail under
Section 439 of Code of Criminal Procedure.**

:- O R D E R :-

- 1) The present applicant/accused has filed bail application under Section 439 of the Code of Criminal Procedure, 1973 in connection with Prohibition Crime Registration **No.11191065220364/'2022** registered with **Narol** Police Station, Ahmedabad for the offence punishable under **Section 65(A)(E), 81, 98(2), 116(B), 83** of the Prohibition Act with the ground that now investigation is completed and charge-sheet has been filed.
- 2) The allegations as contained in the FIR that the applicant/accused is alleged to have been involved in the offence in respect of

keeping, selling and trading in foreign liquor without pass-permit and during the raid, 6407 bottles and beer tin of foreign liquor worth of Rs.13,87,460/- is alleged to have recovered from the godown of Raj Sureshbhai Patel in closed container. Accordingly, an FIR against the present applicant/accused and co-accused has been registered at Narol Police Station for the aforesaid offence. The applicant/accused was arrested on 15-03-2022 and since then he is in judicial custody and now, preferred the present application.

- 3) Learned Counsel for the applicant/accused has contended that the entire allegations in the FIR are false and frivolous and the applicant is innocent and he is falsely implicated in the aforesaid offences. He further argued that now the investigation of offence is complete and charge-sheet has been filed against him; that he is in jail since 15-03-2022 and his further detention in the custody is not at all useful. Ld. Counsel has further submitted that the trial shall take a long time to conclude and if the applicant is kept behind the bar for such a long period then it shall amount to pre-trial punishment. It is further submitted by Ld. Counsel for applicant/accused that the applicant is a permanent resident of address mentioned in the cause title and there is no likelihood of his absconding or fleeing from the justice. Under these circumstances, the present applicant/accused may be released on bail with suitable conditions.
- 4) Per contra, Learned PP for the State has put forward his argument stating that muddamal 6407 bottles and beer tin of foreign liquors having been recovered from the godown and the present applicant/accused is red handedly caught by the police and all the muddamal of huge quantity of foreign liquor were found in his conscious possession. That the amount of total seized muddamal

of foreign liquor is Rs.13,87,460/-. He further argued that if the present applicant is enlarged on regular bail, there is strong possibility that he may indulge himself in other offence of similar kind. Under this circumstances, the bail application of applicant should be dismissed.

- 5) Having due regard with the submissions made by the both the advocates for the parties and gone through the related papers of investigation including charge-sheet. It reveals that the accused is involved in the illegal trade of prohibited liquor and is alleged to have arrested having large quantity of 6407 bottles of foreign liquor valuing approximately Rs.13,87,460/- in the godown. Upon perusal of the papers, it reveals that the investigation qua the present applicant is complete and charge-sheet has already been filed against the applicant in the concerned Court. The applicant is in jail since 15.03.2022 and the trial of the offence shall take long time to conclude it and keeping the accused behind the bar during the pendency of trial would not be proper and justifiable and it will amount to pre-trial punishment. It further appears from the related papers of investigation that the muddamal have already been recovered during the investigation and is in the custody of police. Moreover, co-accused of the applicant has already been released on bail vide order dated;09.06.2022 passed in CRMA No. 1661 of 2022. Hence on the ground of parity also the applicant is entitled for grant of bail. Accordingly, the following order is passed:-

-: ORDER :-

- ◆ The present regular bail application under Section 439 of Cr.PC is hereby **allowed**.
- ◆ The applicant namely, **Hitesh alias Batko s/o Hajariram Thakor** is hereby ordered to be released on regular bail for the offences

under **Section 65(A)(E), 81, 98(2), 116(B), 83** of the Prohibition Act, registered with the **Narol** Police Station, A'bad vide Prohi. **Crime Regis. No. 11191065220364/'2022** on furnishing surety of **Rs.15,000/-** (Rs. Fifteen Thousand only) with personal bond of like amount subject to conditions as follows:-

- He shall remain present before the Trial Court regularly as and when called for on the dates fixed.
- He shall not tamper or attempt to tamper with the evidence of the case, nor shall pressurize or contact the complainant or the witnesses of the prosecution.
- He shall not involve himself in similar type of another offence.
- At the time of execution of bond, he shall furnish his address to the Courts concerned, and if he changes his resident, then he shall disclosed his new residence before the Court within the 15 days.
- He shall not leave the territory of State of Gujarat State without the permission of the Court and if, having passport, he shall deposit the same before the trial Court within a week.
- Bail bond shall be furnished before the Magisterial Court.

Pronounced & signed in the open Court today on this 08th day of October, 2022.

Date : 08.10.2022
Place: Ahmedabad

Bhuvanesh/P.A.

[Sachin S.C. Sethi]

Special POCSO Judge
I/c., 5th Addl. Dist. & Sessions Judge,
Ahmedabad (Rural) at Mirzapur.
UIC No.GJ01540.