

complainant - Bharatkumar Manilal Patel has been working as Technician at Akashvani F.M. Kendra at village-Sinad, Ta-Radhanpur since last twelve years. He further submitted that, between 10/09/2022 to 12/09/2022 some unknown persons committed theft of various tools, machinery, cable wires and other items worth Rs.1,73,862/- at Akashvani F.M. Kendra at Sinad village. Hence, the alleged offence came to registered and thereafter working upon the tip-off, the police arrested four co-accused persons with stolen muddamal with one Safari car from the Sinad village on 14/09/2022.

3. Learned advocate appearing for the applicant/accused has vehemently argued that applicant is falsely implicated in the alleged offence. It is submitted that the applicant has no criminal antecedent. It is further submitted that most of the muddamal has been recovered from the co-accused by the police, but no muddamal was recovered from the possession of the present applicant-accused. It is argued that the applicant resides at the above stated address and would not flee away and shall abide the conditions of the bail and co-operate in investigation. Thus, the

learned advocate for the applicant has prayed to release him on regular bail.

4. Objecting the present application vociferously, it is submitted by learned A.P.P. that at the stage of deciding the application for bail, the court is not required to decide pros & cons of the prosecution case, at the same time, the prosecution is not required to prove the case against the accused from the perception of beyond reasonable doubt. It is submitted that the burglary was committed at night resulting into stealing of the government property. The muddamal is yet to be recovered and the investigation is underway and is at nascent stage. One co-accused is still absconding is yet to be arrested. Therefore, considering overall circumstances, the present applicant/accused may not be enlarged on regular bail.
5. Heard the learned advocates for the respective parties. Read the application and affidavit filed by the Investigating Officer as well as perused the record.
6. The applicant is in judicial custody since 03/10/2022 in connection with the alleged offence and therefore he is before this court

seeking the regular bail. On perusing the affidavit by the Investigating Officer as well as F.I.R., it is noticed that the theft of various tools, machinery, cable wires and other items worth Rs.1,73,862/- at Akashvani F.M. Kendra at Sinad village, which is a government property and police has recovered some of the muddamal. Whereas as per the argument of the learned A.P.P. as well as affidavit of the I.O., muddamal worth Rs.52,700/- is yet to be recovered and one co-accused, who is absconding since the commission of the offence, is yet to be arrested. The probe of the case is underway and is at the nascent stage. Therefore, it is the argument of the learned A.P.P. for the state that considering the circumstances of the offence at the present stage, the bail application should be rejected. On the other hand, the learned advocate for the applicant has argued that the applicant is innocent and has no antecedent and therefore the applicant should be released on bail.

7. While deciding the bail application, the court has to consider the gravity of the offence, role of accused in the offence and possibility of fleeing away and tampering

with evidence by accused. Considering the present case, the applicant/accused is facing allegations to have committed the alleged offence in collusion with co-accused persons and they have stolen the government property. The police is probing the case now and one accused in the offence is yet to be arrested. Moreover, some muddamal is also yet to be recovered and, in such circumstances, if the applicant is granted bail, possibility can not be denied that he may try to influence the investigation and tamper with the evidences. Therefore, I am not inclined to exercise discretionary powers U/s-439 of Cr.P.C. in favour of the applicant/accused at this stage. Apropos, I pass following order.

-: O R D E R :-

1. The present application is hereby rejected.

Pronounced and signed in the open court today.

Date: 10/11/2022 (Gaurang Jitendrakumar Shah)
Patan I/c. Additional Sessions Judge,
Radhanpur
U.I.Code No.GJ00660