

Received on : 12/10/2022

Registered on : 12/10/2022

Decided on : 21/10/2022

Duration: 09 Days.

**IN THE COURT OF DISTRICT & SESSIONS JUDGE,
AT JUNAGADH**

CRIMINAL MISC.APPLICATION NO.582 OF 2022

Exh.: _____

APPLICANT/ACCUSED:

Sanjay @ Sango Kalabhai Gojiya,
Aged about: 35 years,
Occupation: Labour,
Religion: Hindu,
R/o.Dolatpara, Dasharam Society,
Dasaram Apartment,
Ground Floor, Junagadh.

At present:
District Jail,
Junagadh.

Versus

OPPONENT:

The State of Gujarat,
Summons Through: The Public Prosecutor,
Junagadh.

APPEARANCES:

Mr.P.K.Jadav, L.A. for the applicant.
Mr.N.K.Purohit, Ld.P.P. for the State

**BAIL APPLICATION UNDER SECTION 439 OF THE
CODE OF CRIMINAL PROCEDURE**

(Rohen K. Chudawala)
Sessions Judge
Junagadh

-: J U D G M E N T :-

1. By way of the present application preferred under **Section 439** of the Code of Criminal Procedure Code, 1973, the applicant/accused, **Sanjay @ Sango Kalabhai Gojiya**, has prayed to grant regular bail in connection with the offence registered vide **Cr.No.11203023220411/2022**, with **Junagadh A-Division Police Station**, for the offences punishable u/ss.307, 397, 323, 294(B), 506(2) of I.P.C. r/w.Sec.135 of G.P.Act.
2. Pursuant to the notice issued upon the opponent-State of Gujarat, the Ld.P.P. Shri N.K.Purohit has appeared and concerned P.S.I. of the Junagadh A-Division Police Station has filed his affidavit vide Exh.-6 resisting the bail application.
3. Heard Ld.Advocate Shri P.K.Jadav for the applicant/accused and Ld.P.P. Shri N.K.Purohit for the opponent-State. Read the application. Perused the papers produced by the applicant/accused. Also perused the Police papers made available to this Court and affidavit of the P.S.I.

(Rohen K. Chudawala)
Sessions Judge
Junagadh

4. Ld.Advocate Shri P.K.Jadav, for the applicant/accused, has, in addition that what has been stated in his written arguments at Exh.-9, courteously submitted that the investigation is over and charge-sheet has been filed and Sessions Case has been committed to the Court. He has also submitted that the applicant/accused is a young person doing labour work and he is an innocent person who has been falsely implicated in this case. He has also submitted that there is no prima role of the applicant/accused in the alleged offence. He has further submitted that treatment of eye is going on. He has relied upon the Judgments of the Hon'ble Supreme Court passed in the case of Sanjay Chandra Vs. CBI, Lokesh Sing Vs. State of Uttar Pradesh and Judgment of the Hon'ble High Court of Gujarat passed in the case of Patel Vishnubhai Vs. State of Gujarat. He has assured that the applicant/accused will co-operate with the investigation. He has thus urged that subject to conditions, the present application be granted.

5. *Per contra*, Ld.P.P. Shri N.K.Purohit, for the State, has vehemently opposed this

(Rohen K. Chudawala)
Sessions Judge
Junagadh

application. He has submitted that the applicant/accused has committed offence punishable u/s.307 of I.P.C. along with other charges and committed loot. He has also submitted that Sessions Case No.42/2022 is pending before this Court. He has submitted that in view of the affidavit filed by the P.S.I. and considering the severity of the offences, the present application be rejected. He has further argued that the applicant/accused is booked in almost 21 similar offences affecting human body.

6. It transpires from the Police papers made available to this Court and also from the affidavit of the P.S.I. that the applicant/accused is booked under the offence punishable u/ss.307, 397, 323, 294(B), 506(2) of I.P.C. r/w.Sec.135 of G.P.Act. It further transpires that the applicant/accused is having past criminal antecedents and is booked in about 21 different offences with different Police Stations. It further transpires that charge-sheet has been filed and Sessions Case No.42/2022 is pending for trial. It transpires from the purshis at Exh.-7 filed by the P.S.I., Taluka Police

(Rohen K. Chudawala)
Sessions Judge
Junagadh

Station, Junagadh that the injured complainant and witness have been discharged from the hospital.

6.1 The role attributed to the applicant/accused, as per the affidavit of the P.S.I., is to the extent that while the complainant was proceeding on the road, the applicant/accused had demanded Rs.500/- and on denial of the same by the complainant, the applicant/accused had threatened him to kill by showing the knife and slapped him and given knife blows on the left side of abdomen, backside, on forehead, below left eye and caused the injuries and looted amount of Rs.300/- from the pocket of the complainant and thereby had committed the breach of the notification of the District Magistrate and committed the present offence. It further transpires from the affidavit of the P.S.I., that muddamal knife used in the commission of offence has been recovered.

6.2 The P.S.I., in his affidavit has expressed certain dire apprehensions to the extent that the applicant/accused, if enlarged on bail, would pressurize the complainant and

(Rohen K. Chudawala)
Sessions Judge
Junagadh

witnesses for compromise, would tamper with the evidence and would damage the prosecution case, would repeat similar offence. Id. Advocate for the applicant/accused has relied on the Judgments of the Hon'ble Supreme Court passed in the case of Sanjay Chandra Vs. CBI, Lokesh Sing Vs. State of Uttar Pradesh and Judgment of the Hon'ble High Court of Gujarat passed in the case of Patel Vishnubhai Vs. State of Gujarat. I have gone through the said Judgments. The ratio laid down therein has its own relevance but considering the peculiar facts and circumstances of the case and considering the seriousness of the offences, the same are not helpful to the applicant/accused. The applicant/accused is booked in several offences which are affecting the human body.

6.3 Considering the nature and seriousness of the offences, considering the severity of the punishment prescribed for the said offences, coupled with the fact that Sessions Case No.42/2022 is pending before this Court for trial, considering the fact that the applicant/accused is a habituated offender as he is booked in as many as 21 offences,

(Rohen K. Chudawala)
Sessions Judge
Junagadh

considering the apprehensions expressed by the P.S.I., in his affidavit, I am not inclined to exercise my judicial discretion in favour of the applicant/accused at this stage. Hence, the following final order is passed:

-: ORDER :-

(1) This application moved by applicant/accused **Sanjay @ Sango Kalabhai Gojiya** for grant of regular bail, hereby stands **REJECTED**.

(2) Yadi be sent to concerned Police Station.

Signed and pronounced in the open Court on this **21st day of October, 2022.**

Date:21/10/2022

Place:Junagadh

(ROHEN K. CHUDAWALA)

District & Sessions Judge

Junagadh

UIC No.GJ01317

(Rohen K. Chudawala)
Sessions Judge
Junagadh