



GJLV010010852022

Received on

Registered on

Decided on

Duration

Y. M. D.

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, MAHISAGAR AT LUNAWADA.

Cri. Misc. Application No.461/2022

Exh. – _____

Applicant :-

Shanabhai Bhathibhai Damor

Age – 35 Years, Occupation – Agriculture,

R/o.: Sarthuna, Bhathiya Faliyu,

Ta.: Simalvada, Dist.: Dungarpur, Rajasthan.

V E R S U S

Opponent:-

The State of Gujarat

Gandhinagar

Appearances :-

*Ld Advocate **Shri N. H. Prajapati** for the applicant.*

*Ld. P.P. **Shri S. R. Damor** for the opponent.*

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

- (1) The present applicant has filed the present application under Section 439 of the Cr.P.C. wherein the said applicant has narrated that one offence has been registered before Bakor Police Station

vide C.R. No.11187001220271/2022 for the offence under Sections 65(e), 98(2), 81 and 116(b) of the Prohibition Act and the complaint was lodged wherein the said applicant arrested on 05.10.2022 and presented before the Trial Court and sought remand which was granted and thereafter said applicant has filed bail application which was rejected and hence, the present applicant has filed the present application seeking regular bail.

- (2)** Notice duly served to the opponent.
- (3)** Ld. Advocate Mr. N. H. Prajapati for the applicant has submitted that co-accused Bijalbhai released on bail by this Court, that allegations levelled is not punishable upto lifetime imprisonment or death, that applicant is resident of Dungarpur district, Rajasthan and doing agricultural activity and thereby survive his family, his name falsely implicated in the offence, that he has given assurance that he will not flee away from the trial and also not give threat to the prosecution witnesses as well as abide all the conditions which will be imposed by the Court at the time of granting of bail and lastly urged to allow the application.
- (4)** Learned P.P. Mr.S. R. Damor has submitted affidavit filed by I.O. vide Exh.4 and argued that applicant caught red handed with possession of English liquor for sum of Rs.27,180/- and muddamal car for sum of Rs.2,00,000/- and one mobile of Rs.5,000/-, that the present

applicant-accused had loaded the said liquor in the car of the co-accused Bijalbai, that if the applicant will release on bail then he might continue such type of activity and to control over such activity lastly urged to reject the application.

- (5) I have heard the learned Advocate Mr. N. H. Prajapati on behalf of the applicant and learned P.P. Mr. S. R. Damor on behalf of the prosecution. Investigating officer has filed an affidavit vide Exh.4 wherein he has submitted that accused was doing illegal activity of transporting liquor of Rs.27,180/- without pass and permit in the prohibited area and for that lodged the complaint against the accused.
- (6) I have gone through the affidavit filed by the Investigating officer and also police papers. Looking to the case papers, it appears that the police official has seized the English liquor and caught the co-accused Bijalbhai during the raid and he was released by this Court in Cr.M.A. No.433/2022. From his statement, the present applicant-accused name revealed and therefore, looking to the role played by the present applicant – accused. Looking to the gravity of the offence and considering the provision of sentence and role of applicant – accused and availability of applicant – accused at the time of trial and also considering the provision of Section 439 of Cr.P.C., the Court deems, it is fit case for using discretionary powers

in favour of applicant – accused and for that I pass the following order:-

: ORDER :

- (1)** The present applicant-accused is hereby ordered to be enlarged on bail in connection with the offence registered with Bakor Police Station vide C. R. No.11187001220271/2022 for the offence punishable u/Sec.65(e), 98(2), 81 and 116(b) of the Prohibition Act on furnishing surety of Rs.15,000/- (Rupees Fifteen Thousand only) as well as personal bond of like amount, if he is not required in connection with any other offence, on the following conditions;
- a.** not to leave the territory of India till the final disposal of the case;
 - b.** not to take undue advantage of liberty or misuse liberty;
 - c.** not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
 - d.** mark presence before the concerned Police Station on every 15th day of month between 11.00 a.m. and 2.00 p.m. till final disposal of the case;
 - e.** has to furnish passport, if not, then filed an Affidavit within seven (7) days of release; and

- f.** furnish the residential address along with contact details to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of the Court.
- (2)** If the applicant will commit any such type of offence in future then his bail will be cancelled.
- (3)** Bail Bond to be executed before the concerned Court.
- (4)** This order be intimated to the concerned Court and Police Station, if any, for information and necessary action.

Signed and pronounced in Open Court
today on this 11th day of October, 2022.

Date : 11.10.2022.
Lunawada.

(M. M. Patel)
Additional District & Sessions Judge,
Mahisagar at Lunawada.
[GJ00500]