

Received on : 07/10/2022

Registered on : 07/10/2022

Decided on : 17/10/2022

Duration: 10 Days.

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

CRIMINAL MISC.APPLICATION NO.568 OF 2022

Exh. : ____

APPLICANT/ACCUSED:

Vikramsinh Dilipsinh Chauhan,
Aged about: 36 years,
Occupation: Private Service,
Religion: Hindu,
R/o.Madhuram, Near Max Water,
Neel Avenue Township,
Block No.22,
Junagadh.

At present:
District Jail,
Junagadh.

Versus

OPPONENT:

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

APPEARANCES:

Mr.A.A.Durvesh,	L.A.s for the applicant.
for Mr.R.D.Thaker,	
Mr.J.M.Devani,	Ld.Ad.P.P. for the State

(Rohen K. Chudawala)
Sessions Judge
Junagadh

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

-: 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, **Vikramsinh Dilipsinh Chauhan**, has prayed to grant regular bail in connection with the offence registered vide **Cr.No.I-26/2019**, with **Junagadh C-Division Police Station**, for the offences punishable u/ss.406, 409, 420, 114, 120(B) of I.P.C.
2. Pursuant to the notice issued upon the opponent-State of Gujarat, the **Ld.Ad.P.P. Shri J.M.Devani** has appeared and concerned **P.I. of S.O.G, Junagadh** has filed his affidavit* vide **Exh.-6** resisting the bail application.
3. Heard **Ld.Advocate Shri A.A.Durvash** for **Ld.Advocate Shri R.D.Thaker** for the applicant/accused and **Ld.Ad.P.P. Shri J.M.Devani** 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.**

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4. Ld.Advocate Shri A.A.Durvash for Ld.Advocate Shri R.D.Thaker, for the applicant/accused has courteously submitted that the applicant/accused is in judicial custody since 28/01/2019. He has also submitted that since last 3 days, the complainant is not remaining present before the Ld.Trial Court in Criminal Case No.2234/2019 which is going before the Court of 3rd Additional J.M.F.C., Junagadh. According to him, the other co-accused persons in this case are enlarged on bail by the Hon'ble High Court of Gujarat. He has thus claimed parity. He has argued that the present application be allowed subject to certain conditions.
5. Per contra, Ld.Ad.P.P. Shri J.M.Devani, for the State, has vehemently opposed this application. He has submitted that the trial is going on before the Ld.Trial Court and there are no grounds for grant of bail to the applicant/accused. He has thereafter submitted that the affidavit filed by the P.S.I., S.O.G., Junagadh, may kindly be taken into consideration. He has further submitted that the present applicant/accused had earlier moved 3 applications which were

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rejected and had withdrawn the bail application being Cr.M.A. No.1237/2022 filed by him before the Hon'ble High Court of Gujarat. He has thus urged that the present application be rejected.

6. It transpires from Police papers made available to this Court and from the affidavit of the P.S.I. produced at Exh.-6 that the applicant/accused, along with other co-accused persons, is booked under the offences punishable u/ss.406, 409, 420, 114, 120(B) of I.P.C. The role attributed to the present applicant/accused is to the extent that the company had authorized to deposit the amount in A.T.M. Of S.B.I. Bank, Circle Chowk, Junagadh and from the said amount, the present applicant/accused along with other co-accused namely Milan had deposited the amount of Rs.2,04,91,600/- in the A.T.M. and had thereafter, withdrawn the same for their personal use and had thereby, misappropriated the amount, made criminal breach of trust and had cheated the complainant, in connivance with each other.

- 6.1 It transpires from the record that one of the co-accused persons viz. Sandeep P. Ghadia was

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enlarged on bail by the Hon'ble High Court of Gujarat on 25/09/2019 vide oral order passed in Cr.M.A. No.14016/2019. Thereafter, another co-accused viz.Mahavirsinh M. Parmar was enlarged on bail by the Hon'ble High Court of Gujarat vide its order passed in Cr.M.A. No.21778/2019. The present applicant/accused thereafter had preferred bail application vide Cr.M.A. No.3893/2020 and had withdrawn the same and the Hon'ble High Court had vide its oral order dated 16/03/2021, permitted to withdraw him the application with a liberty to file afresh if the trial does not progress satisfactorily within a period of six months. Thereafter, it further transpires that another co-accused Milan M. Umretiya was granted bail by the Hon'ble High Court of Gujarat on 09/09/2022 vide it's order passed in Cr.M.A. No.11000/2022.

6.2 I have gone through the order of the Id.J.M.F.C. dated 04/10/2022 wherein he has clearly stated that the trial proceedings are regularly going on and there is no intentional delay in proceeding with the trial. The Hon'ble High Court has, while permitting the applicant/accused to withdraw the application, given him the liberty to

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file afresh if trial does not progress satisfactorily. The trial is going on.

6.3 This Court cannot loose sight of the fact that at the time when the applicant/accused sought permission to withdraw with a liberty to file afresh, two co-accused persons were already enlarged on bail and after considering the same, the applicant/accused withdrew the bail from the Hon'ble High Court of Gujarat.

6.4 The P.S.I., in his affidavit has expressed dire apprehensions to the extent that the applicant/accused, if enlarged on bail, would tamper with the evidence and would repeat similar offences.

6.5 Considering the nature and seriousness of the offences, severity of the punishment for the said offences coupled with the fact that huge amount of money is involved in the present offence, considering the fact that trial before the Ld.Trial Court is going satisfactorily and that the applicant/accused has withdrawn the bail application filed by him before the Hon'ble High Court of Gujarat and considering the apprehensions expressed

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by the P.S.I., in his affidavit, I am not inclined to exercise my judicial discretion in favour of the applicant/accused. Hence, I pass the following order:

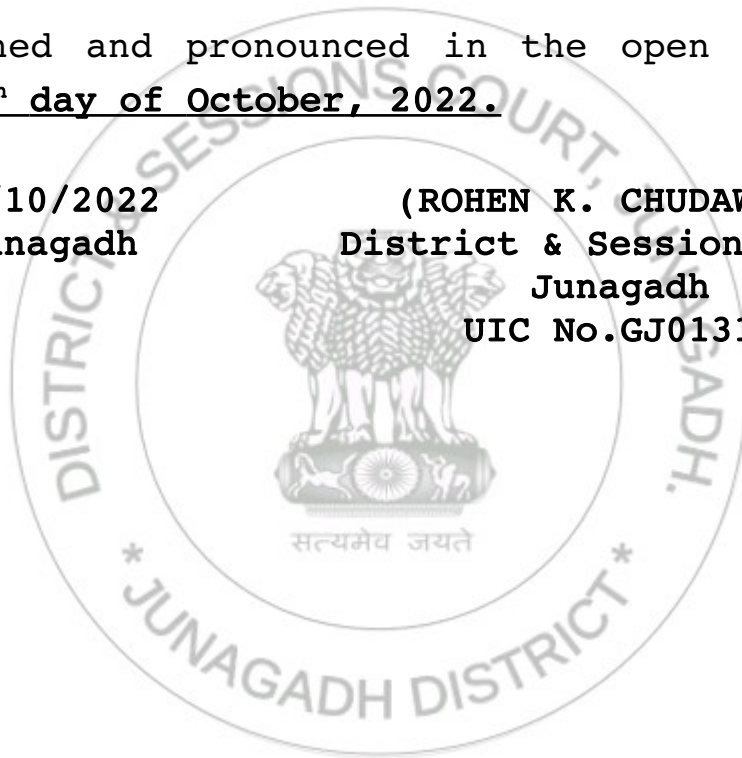
-: ORDER :-

- (1) This application moved by applicant/accused **Vikramsinh Dilipsinh Chauhan** 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 17th day of October, 2022.

Date:17/10/2022
Place:Junagadh

(ROHEN K. CHUDAWALA)
District & Sessions Judge
Junagadh
UIC No.GJ01317



(Rohen K. Chudawala)
Sessions Judge
Junagadh