



IN THE COURT OF 2ND ADDITIONAL SESSIONS JUDGE, DAHOD

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Criminal Misc. Application No. 599 of 2024

Applicant : 1. **Virabhai Fuljibhai Sangada**

Age: 65 years, Occupation: Agriculture / Labour work

2. **Jotabhai Fuljibhai Sangada**

Age: 55 years, Occupation: Agriculture / Labour work

Both residing at Sangada Faliyu, Kharoda

Tal. Dist. Dahod.

Vs.

Opponent : **The State of Gujarat**

Gandhinagar.

**Subject:- Application U/s. 483 of Bharatiya Nagrik Suraksha Sanhita
for Regular Bail.**

APPEARANCE:

Ld. Advocate for the Applicant. : Mr. SV. Malek

Ld. A.P.P. for the Opponent -State. : Mr. JR. Lalpurwala

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

1. *Present application is preferred by the applicants-accused persons as provided under Section 483 of Bharatiya Nagrik Suraksha Sanhita for releasing him on regular bail.*
2. *The factual matrix of the present application are such that, one complaint is lodged before the Dahod Rural Police Station vide Part-"A" Crime Registration No. 11821008220571/2022 for the offences punishable U/s. 3, 4(3) of the Gujarat Land Grabbing Prohibition Act, 2020, and for the said offences present applicants-accused were arrested on 16.09.2024 and since then they are in judicial custody and therefore, they have preferred this bail application. The applicants have specified the grounds for their entitlement for regular bail as per the bail application.*
3. *On service of notice of the present application Ld. A.P.P. Mr. Lalpurwala appeared for the State and Investigating Officer has also filed his affidavit and has also submitted case papers.*
4. *Ld. Advocate Mr. SV. Malek appearing on behalf of the applicant-accused has advanced his oral arguments and submitted that:*
 - i. *Before filing of this application, the applicant had filed one anticipatory bail application vide CRMA No.420/2024 which was rejected by this Court, thereafter they have filed CRMA No. 26928/2022 before the Hon'ble High Court to get anticipatory bail and the same was withdrawn by them.*
 - ii. *The applicants are innocent and they are not directly or indirectly involved in this offence, however, they are falsely implicated in this offence on the basis of false and vague allegations.*

- iii. *The alleged offence was occurred on 20.10.2024 and the complaint was lodged after thought after delay of 08 years. That the applicants are aged about 65 & 55 years, respectively and suffering from various old age disease, therefore they may be enlarged on regular bail.*
 - iv. *The compromise has been made between the parties and they also made compromise in the civil litigation. Therefore, the applicant-accused may be released on regular bail.*
 - v. *The co-accused has enlarged on regular bail by order in CRMA No.499/2024 by this Court, therefore, applicants also entitled for regular bail as per the rule of parity.*
5. *Per Contra the Ld. A.P.P. Mr. JR. Lalpurwala has strongly opposed and objected the present regular bail application and further submitted that;*
- i. *The present offence is registered under Section 3, 4(3) of the special enactment the Gujarat Land Grabbing Prohibition Act and from the complaint and papers of the investigation it is very much clear that on an application preferred by the complainant, the District Committee inquired in to the matter and evaluated the documents and thereafter ordered to register the present offence against the accused persons, so, prima-facie case is made out against the accused persons.*
 - ii. *Ld. A.P.P. Mr. Lalpurwala has further contended that in the revenue record the disputed land runs in the name of*

the complainant, hence, the disputed land is under the ownership of the complainant. He has also submitted that the earlier this application the CRMA No. 420/2024 filed by the applicants for Anticipatory bail has been rejected by this Court.

iii. He has further submitted that in case of granting regular bail to the applicants, they will flee away and will not be available for investigation as well as for trial, so, the present regular bail application deserves to be rejected.

6. *I have heard the arguments of both the side and perused the relevant record specifically the contents of the affidavit as well as F.I.R.*

7. *It is settled principle of law that while deciding the bail application, it is cardinal principle to be kept in mind that, the presumption of innocent is the privilege of every accused and there is also presumption that the accused would not tamper with the witnesses or evidences of the prosecution, if he is enlarged on bail. The basic principle of deciding bail are that whether there is a prima-facie case and secondly, if there is a prima-facie case then whether there is a reasonable apprehension of tampering with the prosecution witnesses or evidences or absconding from trial. The object of the bail is to secure the appearance of the accused during entire completion of investigation as well as trial. The personal liberty is a fundamental and can be circumscribed only by some process sanctioned by law.*

8. *In view of the arguments advanced by the respective side and also keeping in mind the basic principles required to be*

considered at the time of the deciding bail application, following points are required consideration as well.

- (a) The applicants are in judicial custody since 16.09.2024.*
- (b) The Dispute is settled between the parties and in view of the Compromise purshis filed before the local Civil Court, Decree has been drawn.*
- (c) The applicants are entitled to parity as co-accused person is released on regular bail by order in CRMA No. 499/2024.*
- (d) The apprehension shown by the prosecution side can be taken care of by imposing suitable conditions.*

9. *Here it is pertinent to note that the investigation is almost completed. It is the foremost contention of the Ld. Advocate of the applicant that the dispute of land between the complainant and the present applicant is now amicably settled by intervening the leaders of the society. Moreover, co-accused is released on regular bail by order in CRMA No. 499/2024, therefore, the applicants are also entitled for bail as per the rule of parity.*

10. *Hence, looking to the allegations leveled against the present accused and considering the facts and circumstances as well as considering the principles laid down by the Hon'ble Supreme Court in case of **Sanjay Chandra V. CBI**, reported in **2012(1) SCC 40** and in the case of **Gurbaksh Singh Sibia vs State Of Punjab**, reported in **1980 AIR 1632**, this Court found that this is a fit case to use discretion in favour of the present applicant/accused, hence, I pass the following order:*

::: O R D E R :::

- i. *This Present Criminal Misc. (Reg. Bail) Application No. 599 of 2024, is hereby allowed.*
- ii. *The applicant – No. 1. **Virabhai Fuljibhai Sangada** and No.2 **Jotabhai Fuljibhai Sangada** resident of the address shown in the cause title are hereby released on bail on furnishing personal bond of Rs. 15,000/- each and one surety of like amount in connection with Part "A" Crime Registration No. 11821008220571/2022 registered with Dahod Rural Police Station for the offences punishable U/s. 3, 4(3) of the Gujarat Land Grabbing Prohibition Act, 2020, subject to following conditions that ;*
 1. *The applicants shall remain present as and when the Investigating Officer of this offence requires their presence for the investigation purpose and shall co-operate in the investigation.*
 2. *The applicants shall surrender their passport with this Court within seven days from the date of this Order. If they do not possess passport, then file affidavit to that effect;*
 3. *The applicants shall furnish their mobile numbers and residential addresses with authenticated proof before the Court at the time of execution of the bond and shall not change the contact number, address without prior permission of this Court;*
 4. *The applicants shall furnish their permanent address*

with authenticated proof before this Court at the time of execution of the bond;

- 5. The applicants shall not take undue advantage of the liberty or abuse their liberty;*
- 6. The applicants shall not try to tamper or pressurize the prosecution witnesses or complainant in any manner;*
- 7. The applicants shall not in any manner be injurious to the interest of prosecution;*
- 8. The applicants-accused persons shall not leave the territory of India till completion of trial against them without prior permission of this Court.*
- 9. In case of breach of any of the above conditions the bail stands automatically canceled.*

iii. Necessary yadi of this order be sent to the office of Dy.S.P., Dahod and the concerned police station.

Pronounced and Signed, today i.e. on 30th September, 2024.

Date : 30/09/2024.

Place : Dahod

(D. J. Mehta)
2nd Additional Sessions Judge
Dahod.
[UIC No. GJ-00666]