



**IN THE COURT OF 3RD ADDITIONAL SESSIONS JUDGE
DAHOD.**

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Criminal Misc. Application No. 843 of 2022

Applicants :

1. Rameshbhai Khanabhai Damor
Age : 51 Years, Occupation : Agriculture,

2. Arvindbhai Ramudabhai Damor
Age : 35Years, Occupation : Agriculture,

3. Gorsingbhai Titabhai Damor
Age : 41 Years, Occupation : Agriculture,

All the applicants are residing at Piplet,
Tal. Jhalod, Dist. Dahod.

Versus

Opponent : The State of Gujarat

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Application u/s. 439 of Cr.P.C. for Regular Bail.

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APPEARANCE:

Ld. Advocate for the Applicants	:	Mr. I. A. Solanki
Ld. P. P. for the Opponent-State	:	Mr. P. J. Jain

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

1. The present application is preferred by the applicants/accused

under section 439 of the Code of Criminal Procedure for releasing them on regular bail.

2. The factual matrix of the present application are such that ;

i. The applicants/accused are registered for the offences punishable under Section 143, 147, 148, 149, 302, 323, 324, 325, 326, 337, 504, 506(2), 120(b), 34 of IPC and Section 135(1) of the G. P. Act with Chakaliya Police Station bearing Part 'A' Cri. Register No.11821051220070/2022 and for the said offences applicants were arrested on 03.10.2022 and since then they are in judicial custody and therefore, they have preferred this bail application.

3. Ld. Advocate, Mr. I. A. Solanki appeared on behalf of the applicants/accused has advanced his oral arguments and submitted that the present applicants-accused are innocent, they have been falsely implicated in this offence, false allegations are leveled in the complaint, they have not caused injuries to anyone. The present applicants-accused have been falsely implicated in this offence due to political rivalry only. The investigating officer has filed charge-sheet against the earlier arrested co-accused persons, hence there is no question of tempering or hampering with the case of the prosecution. The co-accused persons of this offence have been enlarged on bail by this Court vide Criminal Misc. Application No. 617/2022, 695/2022, 788/2022 & 802/2022 and therefore present applicants-accused are entitled to get benefit of the principle of parity. The present applicants are local resident of Dahod District and they are having movable and immovable property and they will abide by all the conditions,

therefore, they may be released on regular bail on any suitable conditions.

4. Original complainant is also appeared through his Ld. Advocate and filed written objections vide Exh. 06 and he has contended that since the day of filing of complaint, present applicants-accused remain absconded. Moreover, similar kind of offences are already registered against the present applicant-accused and therefore he has prayed to reject this bail application.
5. Per Contra Ld. P.P. Mr. P. J. Jain on behalf of the State has strongly opposed the present bail application and further argued that, since the day of filing of complaint present applicants-accused remain absconded. Moreover, considering the facts mentioned in the F.I.R., the names and role played by the present applicants-accused are clearly transpires. The present applicants-accused No. 2 and 3 armed with Axe and they have caused injuries to the complainant and witnesses on vital part of the body. There are other offences registered against the present applicants-accused, hence they are habitual offender to commit similar kind of offences. The names and role of the present applicants-accused is clearly transpires from the surface of the F.I.R. and there presence is clearly established at the place of incident, and if present applicant-accused have been enlarged on bail, then possibilities of similar kind of incident may occurred. Moreover, since the day of filing of complaint, present applicants-accused remain absconded and the investigation is still pending so far as present applicants-accused are

concerned, hence, present applicants-accused are not entitled to get benefit of the principle of parity. So, considering the nature and gravity of the offence, this bail application requires to be rejected.

6. Having considered the contents of the present application and perused the entire materials available on record and having heard the Ld. Counsels appeared on behalf of the respective parties, it appears that 25 persons are named in the F.I.R. who have made unlawful assembly armed with deadly weapons and caused injuries to the witnesses. According to the facts of the F.I.R., present applicant-accused No. 2 and 3 armed with Axe and they have caused injuries to the complainant and other witness on vital part of the body. Moreover, as per the facts of the affidavit filed by the investigating officer, since the day of filing of F.I.R., present applicants-accused remained absconding. The co-accused of this offence have been enlarged on bail by this Court vide Criminal Misc. Application No. 617/2022, 695/2022, 788/2022 & 802/2022. But the present applicants-accused have remained absconding since the day of filing of complaint and they have been arrested on 03.10.2022, and the investigation is still pending so far as present applicant-accused are concerned, and therefore present applicants-accused are not entitled to get benefit of the principle of parity. The investigating officer has recovered weapons from the present applicants-accused No. 2 and 3, so there is prima facie case against the present applicants-accused for commission of the offence, if they have been enlarged on bail, the possibilities of repetition of incident cannot be ruled out as

the accused have strong criminal antecedent. Thus, having carefully examined and verified the materials available on record, and considering the role attributed to the applicants as reflected from the police papers and conduct of the accused persons, reasonable possibility of securing the presence of the accused at the time of investigation, the larger interests of the public/State, possibility of fleeing away from process of law, this Court not inclined to exercise the discretion and allow the bail application. Therefore, in view of the gravity, nature and complexity of the crime, the role played by the accused persons and considering the larger interest of the society, it is not a fit case for exercising discretionary power vested with this Court under provision of Section 439 of Cr.P.C. and granting regular bail to the accused persons. Hence, in the interest of justice following order is passed.

::: O R D E R :::

The present Criminal Misc. (Regular Bail) Application No.843 of 2022 of Applicant No. 1 Rameshbhai Khanabhai Damor, No. 2. Arvindbhai Ramudabhai Damor, No. 3. Gorsingbhai Titabhai Damor is hereby **rejected**.

Pronounced and signed, today, on this 15th Day of October, 2022.

Dt. 15/10/2022
Place : Dahod

(Smt. Prerana C. Chauhan)
3rd Additional Sessions Judge,
Dahod.
(UIC No.GJ-00516)