

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 1840 of 2021**

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MANISH PARASMAL KANHAIYALAL JAIN

Versus

STATE OF GUJARAT

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Appearance:

MR HARIBHAI J PATEL(9810) for the Applicant(s) No. 1

KARAN Y VYAS(8539) for the Respondent(s) No. 1

MS.NISHA THAKORE, APP, (2) for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE A.Y. KOGJE****Date : 24/03/2021****ORAL ORDER**

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being **I-CR No.11216007200023 of 2020 registered with Gandhinagar Sector 21 Police Station, Gandhinagar** for offence under Sections 406, 420 and 120(B) of the Indian Penal Code and Sections 66(c) and 66(d) of the IT Act.

2. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and



gravity of the offence.

4. Learned advocate Mr. Karan Vyas for the original complainant states that it is well organized and executed crime where it is difficult to apprehend and find out all who are involved in such transaction as it is through Internet banking and E-commerce and several accused are to yet to be apprehended.

5. Learned Advocates appearing on behalf of the respective parties do not press for further reasoned order.

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered:-

- I. The FIR is registered on 16.01.2020 for the offence which is alleged to have taken place between 01.12.2018 to 31.12.2019.
- II. The applicant is in jail since 14.12.2020.
- III. The investigation is concluded and charge-sheet is filed.
- IV. Submission of learned advocate for the applicant that the role of the applicant cannot be considered to be an offence as the applicant is in due course of his business supplied the goods for which he has received the payments. Thereafter, the complainant has disputed the nature of goods and its costs for which the FIR has been registered.



- V. Submission of learned advocate for the applicant, under the instructions and without prejudice to his rights and contention and to his bonafide, states that the applicant is ready and willing to deposit an amount of Rs.1,95,000/- with the trial Court.
- VI. Considering the affidavit filed on behalf of the original complainant to the effect that there is no objection is the applicant is released on regular bail.
- VII. Learned APP under instructions of IO is unable to bring on record any special circumstances against the applicant.

7. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation, reported in [2012]1 SCC 40.**

8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, *prima facie*, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

9. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being **I-CR No.11216007200023 of 2020 registered with Gandhinagar Sector 21 Police Station, Gandhinagar**, on



executing a personal bond of Rs.10,000/- (Rupees Ten Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

- (a) not take undue advantage of liberty or misuse liberty;
- (b) 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;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not leave the State of Gujarat without prior permission of the Trial Court concerned;
- (e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;
- (f) furnish the present address of his residence 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 Trial Court;



(g) to deposit an amount of Rs.1,95,000/- in periodical installments within a period of four weeks from the date of his actual release before the trial Court.

10. The authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.

11. Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with law.

12. At the trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.

13. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(A.Y. KOGJE, J)

SIDDHARTH