

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 15019 of 2022**

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ASHOKKUMAR BHAGWANDAS PATEL

Versus

STATE OF GUJARAT

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Appearance:

LEARNED SENIOR ADVOCATE MR ND NANAVATI with MR YASH J
PATEL(11240) for the Applicant(s) No. 1

MS MAITHALI MEHTA APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI**Date : 22/09/2022****ORAL ORDER**

1. Heard learned Senior Advocate Mr. ND Nanavati assisted by learned advocate Mr. Yash J Patel for the applicant and learned Additional Public Prosecutor Ms. Maithili Mehta for the respondent - State.

2. By this application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant is seeking release on regular bail in connection with the FIR being CR No. 11216008220157 of 2022 registered with Sector 7 Police Station, District Gandhinagar punishable under Sections 406, 409, 465, 467, 468, 471, 170 and 120B of the Indian Penal Code.

3. Learned advocate for the applicant submitted that, the applicant is not involved in commission of offence as alleged in the FIR and therefore, looking to the role of the applicant



and nature of the allegations, the applicant is required to be enlarged on regular bail by imposing suitable terms and conditions.

4. On the other hand, learned APP appearing for the respondent - State vehemently submits that, the offences which have been charged are serious in nature affecting the society at large and looking to the facts as well as the allegations made against the applicant, no discretion would be required to be exercised.

5. In the facts and circumstances of the case and considering the nature of allegations, this Court is of the opinion that, discretion is required to be exercised to enlarge the applicant on regular bail. This Court has considered the following facts while exercising discretion in favour of the applicant :-

- (i) applicant is in jail since 30.04.2022;;
- (ii) the investigation is over and the charge-sheet is filed;
- (iii) considering the age of the applicant being a senior citizen aged 63 years;
- (iv) no any antecedents reported against the applicant.
- (v) Learned Senior advocate Mr. ND Nanavati upon instructions states at bar, that the applicant is ready and willing to **repay** the amount of Rs. 1,15,00,000/- to the concerned department. Learned Senior Advocate



Mr. Nanavati has made it clear that the repayment of the aforesaid amount may not be construed as admission.

6. In view of the aforesaid facts, without discussing the evidence in detail, this Court, prima facie, is of the opinion that, this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, present application is allowed and the applicant is ordered to be released on regular bail in connection with the FIR being CR No. 11216008220157 of 2022 registered with Sector- 7 Police Station, District Gandhinagar on executing personal bond of Rs.10,000/- (Rupees Ten thousand only) with one surety of the like amount to the satisfaction of the learned 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;
- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave India without prior permission of the Sessions Judge concerned;
- [e] furnish latest address of 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 the trial Court;
- [f] the appellant shall repay the amount of



Rs.1,15,00,000/- in six equal installments i.e, five installments of Rs.20,00,000/- and the sixth installment of Rs. 15,00,000/- to be **repaid** on 7th day of every calendar month before the Government Treasury of the complainant department.

[g] mark his presence before the concerned police station in the first week of every month till the trial is over;

7. The Authorities will release the applicant only if the applicant 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. Bail bond to be executed before the learned 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. At the trial, learned 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.

8. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(NIRZAR S. DESAI,J)

Radhika