

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

R/CRIMINAL MISC. APPLICATION (FOR REGULAR BAIL - AFTER
CHARGE-SHEET) NO.21258 of 2024

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SAQIB NISAR @ SAQIB NISAR AHMED SHAIKH
Versus
STATE OF GUJARAT

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Appearance :

MR MUSAIB I SHAIKH for the Applicant.
MR TIRTHRAJ PANDYA, APP for the Respondent.

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 28/10/2024
ORAL ORDER

1. Heard learned advocate for the applicant and learned APP 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 **I C. R. No.24 of 2013 registered with Ranip Police Station, District Ahmedabad** for the offences punishable under Sections 130, 224 and 120 (B) etc. of the Indian Penal Code and under Sections 42 and 45 of the Prisons Act, 1894.
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) the applicant is in jail since February 2013 and there is no likelihood that the trial will be over soon;
 - (ii) the investigation is over and the charge-sheet is filed;
 - (iii) that co-accused Raziuddin Nashar @ Riyazuddin Nashir @ Abdurehman @ Mahmud Gosh @ Abuhajar @ Abdul Razak @ Rasidkhan whose role is identical as compared to the role of the present applicant has been enlarged on Regular Bail by the Hon'ble Supreme Court vide order dated 24.1.2024 passed in Special Leave to Appeal (Criminal) No.10015 of 2023 and hence, on the ground of parity, the case of the applicant deserves consideration;
 - (iv) over and above that, co-accused Nadim Abdulnaeem Abdulrahim Saiyed whose role is identical as compared to the role of the present applicant has been enlarged on Regular Bail by this Court vide order dated 12.8.2024 passed in Criminal Misc. Application No.4646 of 2024 as well as co-accused Nasir Aehmad Liyakatali Mohammad Ghosh Patel whose role is



identical as compared to the role of the present applicant has been enlarged on Regular Bail by this Court vide order dated 12.8.2024 passed in Criminal Misc. Application No.4828 of 2024 and hence, on the ground of parity, the case of the applicant deserves consideration;

(iv) Learned APP could not point out that the role of the present applicant is different than the role of the co-accused who have been considered by the Hon'ble Supreme Court as well as by this Court;

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 **I C. R. No.24 of 2013 registered with Ranip Police Station, District Ahmedabad** 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 injuries 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] 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)

SAVARIYA