

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL APPEAL (REGULAR BAIL - AFTER CHARGESHEET) NO.
1992 of 2024**

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JYOTIRADITYASINH @ GANESH JAYRAJSINH JADEJA (GARASIYA
DARBAR) & ORS.

Versus

STATE OF GUJARAT & ANR.
=====

Appearance:

MR P B KHANDHERIA(5228) for the Appellant(s) No. 1,2,3,4,5

MR ASHISH M DAGLI(2203) for the Opponent(s)/Respondent(s) No. 2

MR HARDIK MEHTA, APP for the Opponent(s)/Respondent(s) No. 1
=====**CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY****Date : 03/10/2024****ORAL ORDER**

1. By way of the present Appeal under Section 14(A) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 for Regular bail under Section 439 of the Code of Criminal Procedure, 1973, the appellants have prayed for enlarging him on regular bail in connection with the FIR being C.R. No. 11203023240526/2024 registered with 'A' Division Police Station, Junagadh for the offences punishable under Sections 143, 147, 148, 149, 307, 365, 323, 504, 506(2), 120-B of the Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 25(1-B)(A) of the Arms Act.

2. Heard learned senior Advocate for the appellants and learned APP appearing on behalf of the Respondent – State.

3. Rule. Learned APP waives service of notice of Rule on behalf of the Respondent - State.



4. Learned Advocate for the appellants have submitted that the appellants have good reputation in the society and no useful purpose would be served by keeping the appellants in jail for indefinite period. It is further contended that the appellants are ready and willing to abide by all the conditions that may be imposed by this Court if released on bail.

5. Learned Additional Public Prosecutor appearing on behalf of the respondent – State has opposed grant of regular bail looking to the nature and gravity of the offence. He submitted that the appellant No.1 is a highly influential person and is politically active as his father has been MLA of the ruling party of the State and presently his mother is also MLA of the ruling party of the State. He further submitted that on the fateful day, the victim was abducted by the present appellants and was taken from place to place where he was also beaten severely and the appellants herein were very much aware about the fact that the victim belonged to Schedule Caste. Moreover, none of the appellants have co-operated with the investigation as they have not parted with the relevant material like their mobile phones with the investigation officer. Learned APP has therefore prayed that the present Appeal may be dismissed.

5.1 Learned Advocate appearing for the original complainant has also opposed the present application contending that there is active participation of all the appellants in commission of the question as they all have abducted the victim and the victim was taken by one of them to various places where he was severely beaten and thereafter he was dropped at a place from which he had gone to his house and had lodged the FIR. He also submitted that the appellants herein have not co-operated with the investigation and a revision application is pending against the order of remand. He therefore submitted to dismiss the present application.

6. Heard learned Advocates for the respective parties and perused the



record. As stated, investigation is over and charge sheet is filed. As per the case of prosecution, the first informant victim was abducted by the appellants and he was taken to various places where he was beaten up and he was also undressed and his video graphed was also recorded which had been made circular. It is the case of the prosecution that the victim was severely beaten. However, the injury certificate indicates that the injuries sustained by him were simple in nature. Considering these aspects, the Appeal deserves consideration. This court has also considered the following aspects:

(a) As per catena of decisions of Hon'ble Supreme Court, there are mainly 3 factors which are required to be considered by this court i.e. prima facie case, availability of the appellants at the time of trial and tampering and hampering with the witnesses by the accused.

(b) That the learned Advocate for the appellants have submitted that the appellants are not likely to flee away.

(c) That the appellants are in custody since 5.6.2024.

(d) The law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. C.B.I. Reported in (2012) 1 SCC 40.**

7. Having heard the learned Advocates for the parties and perusing the record produced in this case as well as taking into consideration the facts of the case, nature of allegations, gravity of accusation, availability of the appellants Accused at the time of Trial etc. and the role attributed to the present appellants, the present Appeal deserves to be allowed and accordingly stands allowed. This Court has also gone through the FIR and police papers and also the earlier order passed by the learned Sessions Court where the learned Sessions Judge has disallowed the bail Application at initial stage. The



appellants are ordered to be released on bail in connection with the aforesaid FIR on executing a personal bond of Rs.10,000/- each with one surety of the like amount to the satisfaction of the trial Court, subject to the following conditions that they shall:

(a) not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

(b) maintain law and order and not to indulge in any criminal activities.

(c) furnish the documentary proof of complete, correct and present address of residence to the Investigating Officer and to the Trial Court at the time of executing the bond and shall not change the residence without prior permission of the trial Court.

(d) provide contact numbers as well as the contact numbers of the sureties before the Trial Court. In case of change in such numbers inform in writing immediately to the trial Court.

(e) file an affidavit stating his immovable properties whether self acquired or ancestral with description, location and present value of such properties before the Trial Court, if any.

(f) not leave India without prior permission of the Trial Court

(g) surrender passport, if any, to the Trial Court within a week. If the appellants does not possess passport, shall file an Affidavit to that effect.



(i) not enter the district of Junagadh for a period of 6 months except for attending the trial court.

8. Bail bond to be executed before the Trial Court having jurisdiction to try the case. It would be open for the Trial Court concerned to give time to furnish the solvency certificate if prayed for.

9. If breach of any of the above conditions is committed, the Trial Court concerned will be free to issue warrant or take appropriate action according to law. The Authorities will release the appellants forthwith only if the appellants are not required in connection with any other offence for the time being.

10. At the trial, the concerned trial Court shall not be influenced by the *prima facie* observations made by this Court in the present order.

11. Rule is made absolute. Direct service permitted.

Manshi

(M. R. MENGDEY,J)