(a) shall co-operate with the investigation and make himself available for interrogation whenever required;

(b) shall 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 to any police officer;

(c) shall not obstruct or hamper the police investigation and shall not play mischief with the evidence collected or yet to be collected by the police.

9.3 The Trial Court shall not be influenced by the prima facie observations made by this Court while recording this order.

9.4 Rule is made absolute. Direct service is permitted.

Result:- Bail granted.

ABC 2016 (II) 498 GUJ
ACQUITTAL & BAIL CASES

HIGH COURT OF GUJARAT

(P.P. Bhatt, J.)

Criminal Misc. Application (For Regular Bail) No. 27128 of 2016
Decided on 19 October, 2016

LAKHABHAI ARJANBHAI CHHATRODIYA ***- Appellant(s).***

Versus

STATE OF GUJARAT ***- Respondent(s).***

Law Covered:- ***Code of Criminal Procedure, 1973 — Section 439 — Regular Bail — Concession of —Indian Penal Code, 1860 — Section 406, 420, 463, 467, 468, 471— Offences under — Matter settled amicably between the parties— No objection to complainant regarding bail—the deed of compromise executed —substantial part of investigation is over— Charge-sheet not filed — no possibility of tampering with the evidence —no criminal antecedents—Applicants enlarged on regular bail. (Para 6)***

Held:- Regard being had to the above submissions and considering the nature and gravity of accusation made against the applicant in the First Information Report and the police papers, as also considering the fact that the substantial part of investigation is over, only charge-sheet is required to be submitted, therefore, there is no possibility of tampering with the evidence, as also considering the

fact that the matter is amicably settled between the applicant and the complainant and now the complainant has no objection if the applicant is released on bail, moreover, the applicant is not having any criminal antecedents, this Court is of the opinion that discretion is required to be exercised in favour of the applicant to enlarge them on regular bail. (Para 6)

Counsel:- ***For Appellant(s):*** *Mr Ashish M Dagli, Advocate.*

For Respondent(s): *Mr. Aamir S Pathan, Advocate & Ms Nisha Thakore, APP.*

JUDGMENT

P.P. BHATT, J.: - 1. The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with First Information Report being C.R.No.I-85 of 2015 registered with Sutrapada Police Station, District:-Junagadh for the offences punishable under Sections 406, 420, 463, 467, 468, 471 of the IPC.

2. Heard learned counsel for the applicant and learned Additional Public Prosecutor for the respondent-State.

3. Learned advocate for the applicant submits that the applicant is an innocent person, however, he has been falsely implicated in the alleged offence. The allegation made against the present applicant is that the land situated at village Umbari survey no.401, 4 acres and 12 gunthas of land which was notarized in the name of the applicant and the complainant purchased land in the year 1999 by registered sale-deed and necessary entry was affected in the Hak Patrak. It is further submitted that the land was in the joint name of possession of the applicant and the complainant and they are doing agriculture work in the said land. It is submitted that when son of the complainant went to revenue office it was found that in the revenue record the name of the complainant was not there and it was deleted. It is further submitted that the matter is now settled amicably between the applicant and the complainant and now the complainant has no objection if the applicant is released on bail. Learned advocate has referred page no.22 which is the deed of compromise executed between Lakhabhai Arjanbhai-the applicant and Devendra Mahadevprasad-the complainant. It is further submitted that the substantial part of investigation is over, only charge-sheet is required to be submitted and therefore, there is no possibility of tampering

with the evidence. It is further submitted that the applicant is not having any criminal antecedents. It is lastly submitted that the applicants are ready and willing to abide by all the conditions which may be imposed by this Court and, therefore, the applicants may be enlarged on regular bail.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail and submitted that from the police papers, there is a prima facie case against the present applicant for committing the alleged offence and, therefore, looking to the nature andgravity of the offence, this application may be dismissed.

5. Learned advocate for the original complainant has placed an affidavit on record wherein it is stated that the matter is amicably settled between the applicant and the complainant and now the complainant has no objection if the applicant is released on bail.

6. Regard being had to the above submissions and considering the nature and gravity of accusation made against the applicant in the First Information Report and the police papers, as also considering the fact that the substantial part of investigation is over, only charge-sheet is required to be submitted, therefore, there is no possibility of tampering with the evidence, as also considering the fact that the matter is amicably settled between the applicant and the complainant and now the complainant has no objection if the applicant is released on bail, moreover, the applicant is not having any criminal antecedents, this Court is of the opinion that discretion is required to be exercised in favour of the applicant to enlarge them on regular bail.

7. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with an offence being C.R.No.I-85 of 2015 registered with Sutrapada Police Station, District:- Junagadh, on his executing a 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 following conditions, that the applicant 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 the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on every Monday of each English calendar month for a period of three months and thereafter, on alternate Monday for a period of six months, between 11:00 a.m. and 2:00 p.m.;

[f] furnish latest and permanent 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 this Court.

8. 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. 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.

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

Result:- Bail granted.

ABC 2016 (II) 501 BOM
ACQUITTAL & BAIL CASES

HIGH COURT OF BOMBAY

(A.S. Gadkari, J.)

Criminal Appeal No. 243 of 1998

Decided on 2 September, 2016

PURUSHOTTAM RAGHUNATH KULKARNI ***- Appellant(s).***

Versus

STATE OF MAHARASHTRA ***- Respondent(s).***

Law Covered:- ***(A) Prevention of Corruption Act, 1988 — Section 13(2) r/w 13(1)(d), 7 & 20 — Tempering with bribe money — Demand not proved — Suspicion that force was applied while***