

HIGH COURT OF GUJARAT**Bench: Mr. Justice M. R. Mengdey****Date of Decision: 10 June 2024****CRIMINAL MISC. APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 9104 OF 2024****KALPESHKUMAR BABUBHAI TURI ...APPLICANT(S)****Versus****STATE OF GUJARAT ...RESPONDENT(S)****Legislation:**

Section 439 of the Code of Criminal Procedure, 1973

Section 66 F(1)(B) of the Information Technology Act, 2000

Subject: Application for regular bail under Section 439 Cr.P.C. after the chargesheet was filed. The applicant was accused of sharing confidential information with a person outside the Indian territory in Pakistan.**Headnotes:**

Criminal Law – Bail Application – Applicant sought regular bail post-chargesheet – Allegation of sharing sensitive information with a Pakistani national – Investigation completed and charge-sheet filed – Previous bail application withdrawn with liberty to reapply if trial does not conclude within six months [Paras 1-8].

Information Technology Act – Section 66 F(1)(B) – Bail denied due to nature of offense – Court noted the information shared was not officially classified as secret or sensitive but emphasized unauthorized sharing of information related to Space Applications Centre, ISRO [Paras 8.1-9].

Decision: Application dismissed – No change in circumstances since previous application – Trial in progress with witnesses examined – Material will be assessed by trial court [Paras 6-9].

Referred Cases: None.**Representing Advocates:****Mr. Shalin Mehta, Sr. Advocate with Mr. Vicky B. Mehta for the Applicant
Mr. J.K. Shah, APP for the Respondent State****ORAL ORDER**

1. The present is a successive bail application by the applicant under Section 439 of the Code of Criminal Procedure for enlarging the applicant on Regular Bail in connection with FIR being C.R. No.II-02 of 2023 registered with Anti-Terrorism Police Station, District:Ahmedabad for the offences punishable under Sections 66 F(1)(B) of the Information Technology Act, 2000.

2. Heard learned senior advocate Mr. Shalin Mehta appearing with learned advocate Mr. Vicky B. Mehta for the applicant and learned APP Mr. J. K. Shah for the respondent State.

3. Learned senior advocate has submitted that in the present offence, investigation is over and charge-sheet has been filed. The present applicant is alleged to have shared some confidential information about the nation to a lady, who was stationed outside the Indian territory in Pakistan. He submits that from the communication dated 27.2.2023, addressed by the Head, P & GA Department of Space, Space Applications Centre, to the investigating officer (Police Inspector, ATS, Gujarat State) it appears that the information contained in those files were not secret, confidential and sensitive in nature, nor did the said information relate to safety, security and intellectual property of the country. He, therefore, submits that the applicant cannot be said to have forwarded any confidential information or the information to the other side, which may have any bearing on the safety and security of the country. He further submitted that the applicant has a blotless career of 17 years with the department of Space, Space Applications Centre, ISRO, Ahmedabad. The present applicant was not aware that a lady with whom he was communicating was not stationed in India. The applicant had merely forwarded the photographs, which were selfies taken by him at his work place. Except this, no other information, whatsoever, had been forwarded by the applicant to that lady.

4. Learned senior advocate further submits that the applicant has good reputation in the society and no useful purpose would be served by keeping the applicant in jail for indefinite period. He, therefore, submitted to allow the present application and enlarge the present applicant on bail subject to suitable conditions.

5. The application is opposed by learned APP *inter alia* contending that the present applicant had taken photographs of the premises of the Space Applications Centre, ISRO, Ahmedabad and had forwarded the same to a lady who was stationed in Pakistan. The information which was forwarded by the present applicant was sensitive in nature. He, therefore, submitted to dismiss the present application.

6. This Court has considered the submissions canvassed by learned advocates for the parties and has also perused the material placed on record.

At the outset, it is required to be noted that earlier the present applicant had preferred Criminal Misc. Application No.13060 of 2023, after filing of the chargesheet, which came to be withdrawn with a liberty to file fresh application after a period of six months, if the trial does not conclude.

7. The record indicates that the trial of the offence has commenced and several witnesses have already been examined by the prosecution. Therefore, there appears no change in circumstance after the filing of the earlier bail application.

8. Learned senior advocate appearing for the applicant seeks to rely upon the communication dated 27.2.2023. The said communication was very much available while withdrawing the earlier bail application. In the said communication, the Head, P & GA, Space Applications Centre had informed the investigating officer as under,

“5. Whether the information contained in these files are of secret, confidential or sensitive nature? (Yes/No)

No, to the best of our knowledge and understanding.

6. Whether the information in these files is related to safety, security or intellectual property of our Country?(Yes/No)

No, to the best of our knowledge and understanding considering Sl.No.5 above.”

8.1 This material would obviously be placed before the trial court and trial court would consider it in light of the other material available on record. Therefore, it would not be proper for this court to observe anything in this regard since trial is already in progress.

8.2 However, if the entire communication is perused, it indicates that the files / images which were forwarded by the present applicant to a lady, who was stationed in Pakistan, were related to the Space Applications Centre, ISRO, Ahmedabad and these images were taken by the applicant without any authorization from the authorities of the Space Applications Centre, nor any permission in that regard had been sought by him.

9. Considering all these aspects, no case is made out to exercise the discretion in favour of the applicant. The present Application is therefore dismissed.

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