IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 4827 of 2020

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RAJESH @ GOPALBHAI KALUBHAI PARMAR

Versus

STATE OF GUJARAT

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Appearance:
MR.HITENDRA D RAJPUT(7224) for the Applicant(s) No. 1
MS JIRGA JHAVERI, APP for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI**

Date : 13/03/2020

ORAL ORDER

1. Learned advocate Mr. Kartik H. Bhatt has received instructions to appear on behalf of original first informant. He is permitted to file his Vakalatnama in the Registry.

2. Rule. Learned APP waives service of Rule on behalf of the respondent State.

3. The present successive application is filed under Section 439 of the Code of Criminal Procedure, 1973, pursuant to the liberty granted by this Court vide order dated 06.02.2020, for regular bail in connection with FIR being **C.R.No.I-139 of 2019 registered with Una Police Station, District Gir Somnath** for offence under Sections 363, 376 and 506(2) of the Indian Penal Code and Sections 3a, 4 and 18 of the POCSO Act.

4. Learned advocate for the applicant has pointed out that the matter is settled out of the Court with the prosecutrix and her parents. It is submitted

that in view of the settlement arrived at between the parties, applicant be enlarged on bail.

5. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

6. Learned advocate Mr. Kartik H. Bhatt appearing for the original complainant has placed on record an affidavit of the mother of the prosecutrix, wherein it is stated that if the applicant is enlarged on bail, she has no objection. Learned advocate for the complainant has identified the complainant as well as her mother who are personally present in the Court.

7. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

8. Learned Advocates appearing on behalf of the respective parties do not press for further reasoned order.

9. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

10. This Court has considered following aspects,

(a) applicant is in jail since 16.11.2019;

(b) settlement is arrived at between the parties. In view of the settlement arrived at between the

parties, without going into the further merits of the case, I am inclined to consider the case of the applicant.

11. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra Vs. Central Bureau of Investigation**, reported in **[2012] 1 SCC 40.**

12. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being **C.R.No.I-139 of 2019 registered with Una Police Station, District Gir Somnath** on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand only) with one surety of the like amount to the satisfaction of the 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 the India without prior permission of the concerned trial court;

[e] mark presence before the concerned Police Station between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present 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 concerned trial court;

13. 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 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.

14. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

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

(VIPUL M. PANCHOLI, J)

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