IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 14042 of 2020

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UDAYLAL KACHRULAL HARJILAL SARPOTA

Versus

STATE OF GUJARAT

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Appearance:
MR YOGESHKUMAR A RATANPARA(7260) for the Applicant(s) No. 1
MS KIRAN D PANDEY(3337) for the Respondent(s) No. 2
MS SHRUTI PATHAK, APP(2) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**

Date : 11/12/2020

ORAL ORDER

1. Heard the learned advocates for the respective parties through video conferencing.

2. This application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR registered as C.R.No.11208050200014 of 2020 with "A" Division Police Station, Rajkot City, Dist. Rajkot for the offences punishable under Sections 457, 380 and 114 of the Indian Penal Code, 1860.

3. Learned advocate for the applicant has submitted that the allegations made against the applicant are vague and he has been falsely implicated in the alleged offence. He has further submitted that the applicant has been arrested on 25.01.2020 and has been incarcerated since then. He has submitted that the allegation of the prosecution is that on 08.01.2020, during the night, some unknown persons had committed theft in the shop of the complainant and stolen cash approx. Rs.7,52,000/-. He has submitted that the applicant is a young boy aged about 23 years and he is neither named in the FIR and nor any description is given in the FIR. Further, he has submitted that the co-accused of the present FIR has been granted regular bail by the Coordinate Bench of this Court vide

order dated 01.10.2020 passed in Criminal Misc. Application No.11968 of 2020 and, therefore, he has urged that on the ground of parity, the applicant may be granted bail.

4. On the other hand, the learned Additional Public Prosecutor appearing for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. She has submitted that there is further antecedent against the applicant.

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

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers. Following aspects are considered :-

i) The applicant is in custody since 25.01.2020;

ii) The investigation is concluded and charge-sheet is filled;

iii) The co-accused of the present FIR has been granted regular bail by the Coordinate Bench of this Court vide order dated 01.10.2020 passed in Criminal Misc. Application No.11968 of 2020.

7. This Court has taken into consideration the law laid down by the Apex Court in the case of ***Sanjay Chandra v. Central Bureau of Investigation***, [2012] 1 SCC 40.

8. Having regard to the above submissions and in the facts and circumstances of the case and considering the nature and gravity of

accusation made against the applicant in the FIR, this Court is of the view that discretion is required to be exercised in favour of the applicant for grant of bail and, since there is no possibility of tampering with the evidence as charge-sheet is already submitted. Moreover, the applicant assures that he will abide by the terms and conditions that may be imposed by the Court and shall not commit any breach.

9. Further I do not intend to go into the merits of the matters and I am persuaded to exercise my discretion in favour of the applicant. The investigation is over and the charge-sheet has already been filed and the trial would take a considerable long period of time.

10. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with C.R.No.11208050200014 of 2020 with "A" Division Police Station, Rajkot City, Dist. Rajkot on executing personal bond of Rs.10,000/- (Ten Thousand) with one surety of 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 & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
(c) surrender passport(s), if any, to the Trial Court within a week;
(d) not leave the State of Gujarat without prior permission of the Trial Court concerned;
(e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;

(f) furnish the present address of his 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 Trial Court;

11. 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.

12. 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.

13. At the trial, the 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.

14. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent.

15. Registry is directed to intimate the concerned jail authority and the concerned Sessions Court about the present order by sending a copy of this order through Fax message, email and/or any other suitable electronic mode.

16. Learned advocate for the applicant is also permitted to send a copy of this order to the concerned jail authority and the concerned Sessions Court through Fax message, email and/or any other suitable electronic mode.

Sd/- .
(A. S. SUPEHIA, J)

*NEHA GUPTA // Bhavesh-[PPS]**