IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 16353 of 2020

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SAMIR @ BHAYU KISHAN SONDHARVA

Versus

STATE OF GUJARAT

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Appearance:
MR NEERAJ J VASU(3159) for the Applicant(s) No. 1
MR HARDIK SONI APP (2) for the Respondent(s) No. 1
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CORAM:**HONOURABLE MR. JUSTICE A.G.URAIZEE**

Date : 04/11/2020

ORAL ORDER

1. **RULE**. Mr. Soni, learned Additional Public Prosecutor waives service of notice of Rule on behalf of the respondent- State of Gujarat.

2. The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for **regular bail** in connection with an **FIR being No.11203023203081 of 2020** registered with **'A' Division Junagadh Police Station** for the offences under Sections 436, 294(b) and 114 of the Indian Penal Code.

3. Heard Mr. Neeraj Vasu, learned advocate for the applicant and Mr. Hardik Soni, learned APP for the respondent-State.

4. Mr. Vasu submits that the applicant is in jail since September, 2020. It is his submission that section 436 of IPC is not applicable to the facts of the case. He further submits that co-accused is released on bail by the sessions court. It is his further submission that the applicant is under medication for mental illness. He, therefore, submits that considering the nature of the allegation and evidence, the applicant may be enlarged on bail on appropriate terms and conditions.

5. Mr. Soni, learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed this bail application. He submits that the applicant has set afire a pan shop of original complainant causing damage to the extent of Rs.18,500/-. He further submits that the applicant is the main accused and has a criminal history of serious offences. He, therefore, submits that he cannot be enlarged on bail. However, he submits that if the Court is inclined to release the applicant on bail, reasons may not be assigned on the merits of the case and the applicant may be asked to remain outside the city of Junagadh for one year.

6. I have heard learned advocates appearing on behalf of the respective parties. Learned advocates appearing on behalf of the respective parties do not invite reasoned order.

7. In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, I am of the opinion that, without expressing opinion on merits and arguments canvassed by the learned advocates on either side, this is a fit case to exercise the discretion and enlarge the applicant on regular bail. Hence, the present application is allowed and the applicant is ordered to be released on **regular bail** in connection with an FIR **FIR being No.11203023203081 of 2020** registered with **'A' Division Junagadh Police Station** 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 learned Trial Court and subject to the 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] not enter city of Junagadh for a period of six months except for

marking presence;

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

[g] 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. Registry is directed to send a copy of the order through e-mail or Fax to the concerned trial Court.

(A.G.URAIZEE, J)

NAIR SMITA V./zgs