IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 16935 of 2020

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ADHAYAY PRAVINBHAI SONI

Versus

STATE OF GUJARAT

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Appearance:
MR KISHAN R CHAKWAWALA(9846) for the Applicant(s) No. 1
MR. MANAN S DOSHI(9795) for the Applicant(s) No. 1
PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE R.P.DHOLARIA**

Date : 06/11/2020

ORAL ORDER

Mr.Sidhdhrath Desai, learned advocate states that he has instructions to appear in the matter for the original complainant/victim. He is permitted to file his vakilatnama. Registry shall accept his vakilatnama.

[1] **Rule**. Learned APP waives service of notice of rule for and on behalf of respondent-State.

[2] This bail application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with an offence being C.R.No.11210023201267 of 2020 registered with Khatodra Police Station, District Surat for the offence punishable under Sections 376(2)(n) and 506(2) of IPC.

[3] Learned advocate appearing on behalf of the

applicant by video conferencing submits that considering the nature of offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

[4] Learned Additional Public Prosecutor appearing on behalf of the respondent-State by video conferencing has opposed grant of regular bail looking to the nature and gravity of the offence.

[5] I have heard learned advocates appearing on behalf of the respective parties by video conferencing and perused the papers of investigation, it appears that crucial part of the investigation is over. Learned advocate for the applicant states that the applicant and victim both are aged above 30 years, there was affairs between them, both were married and they have settled the issue outside the Court. He further stated that even the complaint was also belatedly lodged after about two months. Mr.Sidhdharth Desai, learned advocate appearing on behalf of the victim complainant also placed on record the duly sworn in affidavit of the victim at page 57 indicating that the applicant and victim both have settled the issue outside the Court and under the misconception and misunderstanding, the complaint came to be lodged.

[6] In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, without discussing the evidence in

detail, prima facie, this Court is of the opinion that 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 offence being C.R.No.11210023201267 of 2020 registered with Khatodra Police Station, District Surat on executing a personal bond of **Rs.15,000/- (Rupees Fifteen thousands only)** with one surety of the like amount to the satisfaction of the learned Trial Court and subject to the further conditions that he shall;

[a] not take undue advantage of liberty or misuse liberty;

[b] not act in a manner injuries to the interest of the prosecution;

[c] surrender passport, if any, to the lower court within a week;

[d] not leave India without prior permission of the Sessions Judge concerned;

[e] mark presence before the concerned Police Station on alternate Monday for initial three months and thereafter, on first Monday of every English calendar month, for a further period of three months, between 10:00 a.m. and 2:00 p.m.;

[f] furnish latest 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;

[7] 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. Rule is made absolute to the aforesaid extent.

[8] Registry also to send the copy of this order to the concerned Jail Authority through Fax and Email.

(R.P.DHOLARIA, J)

SINDHU NAIR/PATHAN