IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 1198 of 2020

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PRADIPSINH LAGHDHIRSINH PARMAR

Versus

STATE OF GUJARAT & 1 other(s)

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Appearance:
RUSHI B BHAVSAR(9342) for the Appellant(s) No. 1
MS. SHRUTI PATHAK, APP for the Opponent(s)/Respondent(s) No. 1
MR. MM SAIYED for the Opponent(s)/Respondent(s) No. 2

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

Date : 23/12/2020

ORAL ORDER

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

2. This appeal is filed by the appellant under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR registered as C.R.No.I-42 of 2019 with Surendranagar City “B” Division Police Station, District Surendranagar for the offences punishable under Sections 376, 506(2), 114 of the Indian Penal Code, 1860 and sections 3(2)(5), 3(2)(5)(a), 3(1)(r)(s) and 3(1)(w) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1898.

3. Learned advocate for the appellant has submitted that the allegations made against the appellant are vague and he has been falsely implicated in the alleged offence. He has further submitted that the appellant has been arrested on 28.07.2019 and has been incarcerated since then. He has also submitted that the complainant herself has admitted that she went to meet the appellant before one year ago by her own wish and will and she has returned her home by herself. He has also submitted that the

prosecutrix was in deep love with the appellant. Learned advocate has further submitted that the matter is settled between the parties and, therefore, it is urged by the learned advocate that the appellant may be enlarged on 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.

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 appellant is in custody since 09.02.2020;

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

iii) No criminal antecedents are pointed out against the appellant;

iv) That the matter is settled between the parties;

v) The prosecutrix is present before this Court and she has categorically stated that she is in love with the appellant and has maintained physical relation voluntarily with the appellant;

vi) Learned Additional Public Prosecutor, under the instructions of the Investigating Officer, is unable to bring on record any special circumstances against the appellant.

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.

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

8. 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 appellant. The investigation is over and the charge-sheet has already been filed and the trial would take a considerable long period of time.

9. Hence, the present appeal is allowed. The appellant is ordered to be released on regular bail in connection with No.I-42 of 2019 with Surendranagar City “B” Division Police Station, District Surendranagar 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;

10. The authorities will release the appellant 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.

11. 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.

12. 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 appellant on bail.

13. The appeal is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent.

14. 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.

15. Learned advocate for the appellant 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 /// Vishal Mishra