IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 18265 of 2020

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KAPMILION THANGKHOSOI SAMATE

Versus

STATE OF GUJARAT

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Appearance:
MR HARDIK A DAVE(3764) for the Applicant(s) No. 1
MR.H.K.PATEL, APP,(2) for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE A.Y. KOGJE**

Date : 21/12/2020
ORAL ORDER

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being **I-CR No.31 of 2019 registered with Kamrej Police Station, Surat** for offence under Section 302 of the Indian Penal Code.

2. 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.

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

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

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

I. The FIR is registered on before 07.02.2019 2:00 AM for the offence which is alleged to have taken place on 07.02.2019.

II. The applicant is in jail since 08.02.2019.

III. Submission on the part of the advocate for the applicant is that the incident took place out of spur of the moment, where there was an altercation of the applicant with the deceased as they were employed for the same purpose at a farmhouse for keeping watch.

IV. No antecedents are reported against the applicant.

V. Learned APP under instructions of IO is unable to bring on record any special circumstances against the applicant.

6. In the facts and circumstances of the case and considering the nature of the 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.

7. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being **I-CR No.31 of 2019 registered with Kamrej Police Station, Surat**, 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 & 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, 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;

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.

9. 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.

10. 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.

11. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(A.Y. KOGJE, J)

CAROLINE/Siddharth