IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 19540 of 2020

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BHAGIBEN MADHUBHAI PARMAR

Versus

STATE OF GUJARAT

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Appearance:
MR HARDIK DAVE ASSISTED BY MR SANKET K PANDYA(9451) for the Applicant(s) No. 1
MR MANAN MEHTA, APP (2) for the Respondent(s) No. 1

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CORAM:**HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**

Date : 22/12/2020

ORAL ORDER

1. Rule. Mr. Manan Mehta, learned APP waives service of Rule for the respondent – State.

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being C.R.No.11197057201258 of 2020 registered with Waghodia Police Station for the offence punishable under Sections 465, 467, 468, 471, 120(B) and 114 of IPC.

3. Heard Mr. Hardik Dave, learned advocate assisted by Mr. Sanket Pandya, learned counsel for the applicant and Mr. Manan Mehta, learned APP for the State through video conferencing.

4. Learned counsel for the applicant submitted that the applicant is in jail since 01.10.2020. It is also submitted that the applicant has no criminal antecedence. It is further submitted that the dispute, if any, can resolved by the civil court and not in criminal proceedings which have been initiated only to build pressure on the applicant and other co-accused. It is also submitted that it is a case of false implication and the dispute is already pending before the civil

court. 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.

5. Learned APP appearing on behalf of the respondent - State has opposed grant of regular bail looking to the nature and gravity of the offence. However, learned APP does not dispute the above position nor has pointed out any distinction.

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

7. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

8. Looking to the overall facts and circumstances of the present case, I am inclined to consider the case of the applicant.

9. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra Vs. Central Bureau of Investigation,** reported in **[2012] 1 SCC 40.**

10. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being C.R.No.11197057201258 of 2020 registered with Waghodia 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 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;

[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 between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present 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;

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. 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 prima facie observations made by this Court in the present order.

13. Rule is made absolute to the aforesaid extent. The Registry is directed to communicate this order to the concerned court by email.

(VIKRAM NATH, CJ)

A. B. VAGHELA/RADHAN