IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 19656 of 2020

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PARVATBHAI RAMABHAI DAMOR

Versus

STATE OF GUJARAT

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Appearance:
MS KRUPABEN S LIMBACHIYA(7851) for the Applicant(s) No. 1
MR.CHIRAG B UPADHYAY(6735) for the Applicant(s) No. 1
MR DHARMESH DEVNANI, ADDL. PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

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

Date : 23/12/2020

ORAL ORDER

1. Rule. Shri Dharmesh Devnani, 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.11187006201465/2020 registered with Lunawada Police Station, District Mahisagar for offence under Sections 65(e) and 116(B) of the Gujarat Prohibition Act.

3. Heard Mr.Chirag Upadhyay, learned counsel for the applicant and the learned APP through Video Conferencing.

4. Learned counsel for the applicant submitted that the applicant is in jail since 25.11.2020. It is further submitted that there are four criminal antecedents of similar nature in which the applicant is already on bail. It is next submitted that the applicant has been falsely implicated only because he was earlier involved in such cases. It is also submitted that no

recovery was made from the applicant and his name has surfaced on the statement of a co-accused. 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.

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.11187006201465/2020 registered with Lunawada Police Station, District Mahisagar 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 / GAURAV THAKER