IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 19847 of 2020

==========

MAHESHBHAI KANUBHAI ROHIT

Versus

STATE OF GUJARAT

==========

Appearance:
MR NIRAV C THAKKAR(2206) for the Applicant(s) No. 1
MR DHARMESH DEVNANI, ADDL. PUBLIC PROSECUTOR(2) for the Respondent(s) No. 1

==========

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

Date : 24/12/2020
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.11215040200644/2020 registered with Bhalej Police Station, District Anand for offence under Sections 363, 366, 114, 323, 506(2) of the IPC and Sections 17 and 18 of the Protection of Children from Sexual Offences Act, 2012.

3. Heard Mr. Nirav Thakkar, learned counsel for the applicant and the learned APP through Video Conferencing.

4. Learned counsel for the applicant submitted that the applicant has no criminal antecedents and is in jail since 29.11.2020. It is next submitted that the prosecution story as set out is highly improbable. It is also submitted that within few hours only the girl was recovered and at the time of the recovery of the girl, the applicant was not there. It is also

submitted that on account of the fact that the applicant is a witness in a case lodged by the father of the victim that he has been falsely implicated. 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.11215040200644/2020 registered with Bhalej Police Station, District Anand 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