

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION NO. 12747 of 2023
(FOR REGULAR BAIL - AFTER CHARGESHEET)**

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SAHDEVJI CHATURJI THAKOR

Versus

STATE OF GUJARAT

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Appearance:

MR TUSHAR CHAUDHARY(5316) for the Applicant(s) No. 1

MR VIVEK V BHAMARE(6710) for the Respondent(s) No. 1

MS SHRUTI PATHAK APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 25/01/2024

ORAL ORDER

1. Rule. Learned APP waives service of notice of rule for respondent – State of Gujarat.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with the FIR being C.R. No.11217019220241/2022 registered with the Patan City 'A' Division Police Station, Patan for the offence punishable under Sections 306, 294(b), 506(2) and 114 of the Indian Penal Code.
3. Learned advocate for the applicant submitted that now the investigation is completed and after submission of the chargesheet, the present application is preferred and the applicant is arrested on 07.08.2022 and since then, he is in judicial custody. Learned advocate submitted that so far as the role attributed to the present

applicant is concerned, it is alleged that 15 years ago, the father of the complainant (the deceased) had given Rs.25,000/- to the applicant – accused and within five years, Rs.5,00,000/- have been given to the applicant and thus in short, the applicant – accused borrowed more than Rs.5,00,000/- from the deceased and, hence when the deceased had demanded the said amount from the applicant – accused, the applicant gave threats to the deceased that he will demand the said amount then, he will defame the image of her daughter and subsequently after certain period, the deceased has committed suicide and at the time of suicide, a suicide note was written by the deceased, wherein it is stated that because of the harassment at the instance of the applicant – accused, he is going to commit suicide. Learned advocate, however, submitted that in fact, the applicant was not aware about the fact that the deceased has committed suicide. It is, therefore, urged that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Learned APP for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is submitted that the role of the present applicant is clearly spelt out from the papers of the chargesheet and at the time of committing suicide, a suicide note was written, wherein he has categorically stated that due to

constant harassment by the present applicant, he has committed suicide. It is, therefore, urged that the present application may not be entertained.

5. Learned advocate, Mr. Bhamare appears for the original complainant has opposed the grant of bail application and has also adopted the submissions canvassed by learned APP. Learned advocate submitted that FIR has been registered against three accused persons and out of them, application filed by other two accused has not been considered by the Coordinate Bench and the role attributed to those accused is lesser than the role attributed to the present applicant. It is, therefore, urged that considering the above facts, this Hon'ble Court may not exercise the discretion in favour of the present applicant – accused.
6. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.
7. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. It is found out from the record that the present application is preferred after submission of the chargesheet and now the investigation is completed and the applicant is in jail since 07.08.2022. I have considered the allegations leveled in the FIR

against the applicant and the role attributed to the present applicant – accused as well as the role attributed to other co-accused. Therefore considering the above factual aspects, the present application deserves to be allowed.

8. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**, reported in [2012] 1 SCC 40 as well as in case of **Satender Kumar Antil v. Central Bureau of Investigation & Anr.** reported in (2022) 10 SCC 51.
9. 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.
10. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with the FIR being C.R. No.11217019220241/2022 registered with the Patan City 'A' Division Police Station, Patan on executing a personal bond of Rs.15,000/- (Rupees Fifteen 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 the State of Gujarat without prior permission of the Sessions Judge concerned;
 - [e] mark presence before the concerned Police Station on alternate Monday 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 concerned 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 observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.

13. Rule is made absolute to the aforesaid extent.
Direct service is permitted.

(DIVYESH A. JOSHI, J.)

Gautam