

**(2022) 01 GUJ CK 0079**  
**In the Gujarat High Court**

**Case No :** R/Criminal Misc.Application No. 20019 Of 2021

Dhaneshbhai Anupbhai Sharma

APPELLANT

Vs

State Of Gujarat

RESPONDENT

**Date of Decision :** 19-01-2022

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 439  
Indian Penal Code, 1860 — Section 114, 306, 498(A)

**Citation :** (2022) 01 GUJ CK 0079

**Hon'ble Judges :** A.Y. Kogje, J

**Bench :** Single Bench

**Advocate :** Adarshkumar D Patel, Dipesh D Soni, Moxa Thakkar

**Final Decision :** Allowed

## **Judgement**

A.Y. Kogje, J

1. This application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 for regular bail in connection with FIR

registered as C.R. No.IA11821030210069 of 2021 with JHALOD POLICE STATION, DISTRICTDAHOD for the offence punishable under

Sections 306, 498(A), 114 of the Indian Penal Code.

2. Learned advocate appearing on behalf of the applicant submits that considering the nature of offence, the applicant may be enlarged on regular bail

by imposing suitable conditions.

3. On the other hand, the learned Additional Public Prosecutor appearing for the respondentState 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 a 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 F.I.R. is registered on 19/03/2021 for the offence which is alleged to have taken place on 30/05/2020;

II) The applicant is in custody since 20/08/2021;

III) Investigation is concluded and charge sheet is filed;

IV) Learned Advocate for the applicant submitted that marriage period is of three years and marriage period was happy. But for some reason,

according to the applicant, medicine was consumed and therefore, deceased was rushed by the applicant to the Doctor, who after treatment, wife was

allowed to go as her condition was improved. But thereafter, again condition deteriorated and thereafter after period of 8 days, the deceased expired.

V) With regards to the allegations of amount of Rs.3,50,000/- deposited in the account of the applicant, it is submitted that same was paid in the year

2019 for the purpose of purchase plot where the deceased and the applicant were joint owners.

VI) Learned Advocate for the applicant under the instruction submitted that there are no other antecedents against the applicant;

VII) Other Co-accused has been enlarged on bail. Hence, applying principle of parity.

VIII) Learned Advocate for the applicant submitted that the applicant was initially protected in anticipatory bail during which the statement of the applicant was recorded.

IX) Learned Additional Public Prosecutor under the instructions of the Investigating Officer is unable to bring on record any special circumstances against the applicant.

This Court has 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.

6. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the First Information Report, 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 C.R. No. IÂ 11821030210069 of

2021 with JHALOD POLICE STATION, DISTRICTÂDAHOD, 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. The application is allowed in the aforesaid terms. Rule is made absolute to the aforesaid extent. Direct Service is permitted.