

(2022) 08 GUJ CK 0043
In the Gujarat High Court
Case No : R/Criminal Appeal No. 1342 Of 2022

Mehulbhai Hiteshbhai Trada

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 05-08-2022

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14A
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 363, 366, 376(2)(N)
Protection Of Children From Sexual Offences Act, 2012 — Section 5(L), 6, 18

Citation : (2022) 08 GUJ CK 0043

Hon'ble Judges : Nikhil S. Kariel, J

Bench : Single Bench

Advocate : Mayank R Chavda, LB Dabhi

Final Decision : Allowed

Judgement

Nikhil S. Kariel, J

1. Heard learned Advocate Mr.Mayank Chavda on behalf of the appellant, learned Additional Public Prosecutor Mr.Dabhi on behalf of the respondent-State and learned Advocate Ms.Chetna Gohel for the prosecutrix.

2. Learned Advocate Ms.Chetna Gohel tenders an affidavit on behalf of the prosecutrix, which is taken on record.

3. By way of this appeal filed under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act read with Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. bearing C.R. No.11186007220062 of 2022 registered with Talala Police Station, Gir-Somnath on 10.2.2022 for offences punishable under Sections 363, 366 and 376(2)(N) of IPC, under Sections 5(L), 6 and 18 of POCSO Act and under Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. Learned Advocate Mr. Chavda for the appellant would submit that as the appellant and the daughter of the First Informant were having an affair, the First Informant has falsely implicated the present appellant in the present criminal complaint. Learned Advocate would submit that the present appellant is innocent and he has not done any criminal activities as alleged in the complaint. Learned Advocate submit that having regard to the same, this Court may release the present appellant on regular bail subject to any stringent conditions as may be imposed by this Court.

5. Submissions of learned Advocate Mr.Chavda have been vehemently opposed by learned APP Mr.Dabhi. Learned APP would submit that looking to the seriousness of the offence as alleged in the FIR, this Court may not grant indulgence to the present appellant at this stage.

6. Having heard the learned Advocates for the parties, following aspects are considered by this Court:-

1. That the appellant and the prosecutrix were having love-affair;
2. It also appears that the appellant had also eloped with the prosecutrix earlier;
3. That the dispute between the mother of the prosecutrix and the present appellant is amicably settled;
4. That the prosecutrix, according to the affidavit filed today, is of 18 years.

7. In the facts and circumstances of the case and considering the nature of allegations made in the FIR and without discussing the evidence in details as well as without going into details, prima-facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the appellant on bail.

8. Hence, the appeal is allowed and the appellant is ordered to be released on regular bail in connection with C.R. No.11186007220062 of 2022 registered with Talala Police Station, Gir-Somnath on 10.2.2022 on executing a 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 the State of Gujarat without prior permission of the Sessions Judge concerned;

[e] furnish the present address of residence to the I.O. and also to the Court at the time of execution of the bond and shall not change the residence without prior intimation to the Investigating Officer concerned.

9. The Authorities will release the appellant 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.

10. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions in accordance with law. 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 appellant on bail. Direct service is permitted.