

(2022) 08 GUJ CK 0064
In the Gujarat High Court
Case No : R/Criminal Appeal No. 1326 Of 2022

Mukeshbhai Govabhai Parmar (Thakor)	APPELLANT
Vs	
State Of Gujarat	RESPONDENT

Date of Decision : 10-08-2022

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 114, 306, 420

Citation : (2022) 08 GUJ CK 0064

Hon'ble Judges : Nikhil S. Kariel, J

Bench : Single Bench

Advocate : Kartikkumar G Barot, L B Dabhi

Final Decision : Allowed

Judgement

Nikhil S. Kariel, J

1. Heard learned Advocate Mr. Kartik Kumar Barot on behalf of the appellant and learned Additional Public Prosecutor Mr. L.B. Dabhi on behalf of the respondent no.1- State.

2. Though served, none appears on behalf of respondent no.2.

3. This appeal is filed by the appellant 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. I- 11192002220135 of 2022 registered with Aslali Police Station, Ahmedabad for offences punishable under Sections 306, 420 and 114 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. Learned Advocate would submit that considering the fact that the present appellant is in custody since 27.03.2022 in connection with the present offence

this Court may release the present appellant on regular bail.

5. Learned APP Mr. Dabhi on behalf of the respondent no.1- State has opposed grant of regular bail looking to the nature and gravity of the offence, this Court may not consider this appeal at this stage.

6. Considering the submissions made by learned Advocate Mr. Barot and learned APP Mr. Dabhi, without appreciating the evidence in detail, this Court deems it appropriate to note the following aspects which are considered:

[1] While the allegations against the appellant being of having received some money for getting the deceased and co-accused Rani getting married with each other, prima facie there does not appear to be any material to show that either there was any conspiracy whereby after marriage Rani was to run away from her matrimonial home or that the same was at the behest of the present appellant.

[2] It also appears that the present appellant, though was instrumental in getting the marriage between Rani and the deceased, he was not aware about the fact that Rani after marriage was to run away.

[3] There is no allegation of the present appellant having in any manner harassed or insulted the deceased on account of caste.

[4] Furthermore, this Court has also considered the fact that the present appellant is in custody since 27.03.2022 and there being no antecedent against the present appellant.

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 bail in connection with FIR being CR.No. I- 11192002220135 of 2022 registered with Aslali Police Station, Ahmedabad 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 they 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 ;

[f] mark presence once in a month for a period of next three months at the nearest Police Station

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.