

**(2023) 12 GUJ CK 0026**

**In the Gujarat High Court**

**Case No :** R/Criminal Misc.Application No. 10789 Of 2023 (For Regular Bail - After Chargesheet)

Pareshbhai Lalabhai Bhoi

APPELLANT

Vs

State Of Gujarat

RESPONDENT

**Date of Decision :** 05-12-2023

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 439  
Indian Penal Code, 1860 — Section 34, 114, 120(B), 201, 212, 363, 366, 376(2)(n), 418  
Protection Of Children From Sexual Offences Act, 2012 — Section 4, 5(L), 6  
Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(w)(1), 3(2)(5a)  
Information Technology Act, 2000 — Section 66(c), 66(d)

**Citation :** (2023) 12 GUJ CK 0026

**Hon'ble Judges :** Divyesh A. Joshi, J

**Bench :** Single Bench

**Advocate :** Jesal Maiwala, Jirga Jhaveri, Maulik M Soni

**Final Decision :** Allowed

## Judgement

Divyesh A. Joshi, J

1. 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.11187004230065/2023 registered with the Kadana Police Station, Mahisagar for the offence punishable under Sections 363, 366, 376(2)(n), 120(B), 212, 114, 201, 418 and 34 of the Indian Penal Code; under Sections 4, 5(L) and 6 of the POCSO Act; under Sections 3(1)(w)(1) and 3(2)(5-a) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and under Sections 66(c) and 66(d) of the IT Act

2. 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 in jail since 14.03.2023. It is submitted that during

the course of investigation, the concerned IO has recorded the statement of the victim, wherein she has categorically stated that she has developed relationship by her own will and wish and she has left her house and reached along with main accused. It is, therefore, urged that considering the nature of the offence and the aforesaid facts, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. 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, hence, the present application may not be entertained.

4. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

5. 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 14.03.2023. I have also considered the statement of the victim girl, which indicates about her willingness to accompany the accused. Therefore without entering into further merits of the matter, the present application deserves to be allowed.

6. 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.

7. 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.

8. 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.11187004230065/2023 registered with the Kadana Police Station, Mahisagar 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 and shall not change the residence without prior permission of this Court;

9. 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.

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