

(2020) 02 GUJ CK 0056

In the Gujarat High Court

Case No : R/Criminal Misc. Application No. 2860 Of 2020

Rakesh @ Sonu Jogeshwar OZA

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 363, 366, 376(2)
Protection Of Children From Sexual Offences (POCSO) Act, 2012 — Section 3, 4, 5(L),
7, 8

Citation : (2020) 02 GUJ CK 0056

Hon'ble Judges : Vipul M. Pancholi, J

Bench : Single Bench

**Advocate : Himanshi R Balodi, Mahitosh U Singh, MH Shekhawat, LB Dabhi
Chirag Parekh**

Final Decision : Allowed

Judgement

Vipul M. Pancholi, J

1. Rule. Learned Additional Public Prosecutor waives service of Rule on behalf of the respondent State.

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being C.R.

No.IA498/2019 registered with Sola High Court Police Station for offence under Sections 363, 366 and 376(2) of the Indian Penal Code and Sections

3, 4, 5(L), 7 and 8 of the POCSO Act.

3. Heard learned advocate, Mr. M.H. Shekhawat for the applicant, learned APP Mr. L.B. Dabhi for the respondent "State and learned advocate,

Mr. Chirag Parekh, who is permitted to file his Vakalatnama before the Registry. Learned advocate for the applicant has identified the complainant,

who is personally present in the Court. Learned advocate for the complainant has tendered affidavit of the complainant, which is taken on record.

Learned advocates for the applicant as well as complainant have stated that the matter has been settled between the parties and the complainant has

no object if the applicant is enlarged on bail.

4. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

5. Learned APP appearing on behalf of the respondentÂ? State has opposed grant of regular bail looking to the nature and gravity of the offence.

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

7. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case,

nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is

a fit case to exercise the discretion and enlarge the applicant on regular bail.

8. This Court has considered following aspects,

(a) the applicant is in jail since 13.12.2019;

(b) the investigation is over and the chargesheet is filed;

(c) as stated above, the matter has been settled between the parties and as stated by complainant in the affidavit, he has no objection if the applicant is enlarged on bail.

In view of the settlement arrived at between the parties, without going further into the merits of the matter, I am inclined to consider the case of the

applicant.

9. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of Sanjay Chandra Vs. Central Bureau of

Investigation, reported in [2012] 1 SCC 40.

10. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being C.R. No.IÂ?

498/2019 registered with Sola High Court Police Station on executing a personal bond of Rs.10,000/Â (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 India without prior permission of the concerned trial court;

[e] mark presence before the concerned Police Station between 1st to 10th day 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 the concerned trial 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 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 prima facie observations made by this Court in the present order.

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