

(2020) 08 GUJ CK 0003
In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 9774 Of 2020

Rizwanaben Ayajbhai Shobhani

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 04-08-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114, 120B, 306, 506(1), 506(2)

Citation : (2020) 08 GUJ CK 0003

Hon'ble Judges : B.N. Karia, J

Bench : Single Bench

Advocate : Arbaazkhan A Pathan, Mohamadzaid I Saiyed, Yn Ravani, M.H. Bhatt

Final Decision : Allowed

Judgement

B.N. Karia, J

The present application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR being

C.R.No. 11193003201107 of 2020 registered with Amreli City Police Station, District: Amreli for the offences punishable under Sections 306, 506(1),

506(2), 120(B) and 114 of the Indian Penal Code.

Learned advocate for the applicant submits that considering the nature of allegations, role attributed to the applicant, the applicant may be enlarged on regular bail by imposing suitable conditions.

Learned Additional Public Prosecutor appearing on behalf of the respondent-State and learned advocate for the respondent No.2 have opposed grant

of regular bail looking to the nature and gravity of the offence and submitted that brother-in-law has specifically stated name of the present applicant

and two other co-accused in his statement, who were caused for committing suicide. That, videography made by the brother-in-law clearly makes it

clear the part of the investigation. The statement and videography is the 'dying declaration' in view of the provisions of Evidence Act. This

evidence itself is sufficient to convict the accused persons, because there is no cause for dying person to tell lie. Learned advocate for the respondent

No.2 has referred the affidavit of the investigating officer filed before the learned Trial Court and argued that criminal conspiracy hatched by the

present applicant and other two co-accused as the deceased had an illicit relation with the accused No.1, and therefore, criminal conspiracy was

hatched by the accused- persons demanding money from the deceased and if he would not fulfill the demand of money, threat was given to commit

his murder or involve him in the criminal case. That, mental torture was given to the deceased and thereby instigation for committing suicide was made

by the present applicant. That, charge-sheet is not filed and investigation is under progress.

I have heard learned advocates appearing on behalf of the respective parties. Learned advocates appearing on behalf of the respective parties do not

invite reasoned order.

In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, it appears that applicant is a

lady and she has two minor children having age of 16 years and 10 years as well as her mother-in-law is having age of 75 years and thus, judicial

custody of the present applicant is not required for further period and thus, I am of the opinion that this is a fit case to exercise the discretion and

enlarge the applicant on regular bail.

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

11193003201107 of 2020 registered with Amreli City Police Station, District: Amreli 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 learned Trial Court and subject to the conditions that the applicant 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 fortnightly for a period of six months, between 11:00 a.m. and 2:00 p.m. till filing of the charge-sheet ;

[f] furnish latest and permanent 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 this Court;

[g] not enter into limits of the Amreli City till filing of the charge-sheet;

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 learned 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. At the trial, learned 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.

Rule is made absolute to the aforesaid extent.

This order be communicated to the applicant through Jail Authorities by the registry as well as learned Sessions Court concerned.