

(2022) 02 GUJ CK 0050

In the Gujarat High Court

Case No : R/Criminal Misc.Application No. 3556 Of 2022

Varshaben Virendrabhai Soni

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 14-02-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 83, 84, 438

Indian Penal Code, 1860 — Section 120B, 144, 406, 409, 420

Citation : (2022) 02 GUJ CK 0050

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Hiren J Trivedi, P P Majmudar, Krina Calla

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

1. Rule. Learned APP waives service of notice of Rule on behalf of respondent-State.

2. By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant-accused has prayed for anticipatory

bail in connection with the FIR being C.R. No.I-15 of 2000 registered with CID Crime Gandhinagar Zone Police Station, District: Ahmedabad for the

offences under Sections 406, 420, 120B, 144 and 409 of IPC.

3. Learned advocate for the applicant submits that the applicant has been falsely implicated in the alleged offence. Custodial interrogation of the

applicant is not essential for the purpose of investigation.

It is submitted by learned advocate for the applicant that in the year 2014-15, the proceedings under Sections 83 and 84 of Cr.P.C. being proceeded

against the present applicant and thereafter, the applicant was enlarged on regular bail vide order dated 03.07.2021 by the Court concerned.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent â?" State has opposed grant of anticipatory bail stating inter alia that

the allegations against the applicant are grave and serious in nature and custodial interrogation is necessary for further investigation of the case.

5. Having heard the learned advocates for the respective parties and perusing the material placed on record and taking into consideration the facts of

the case, it appears that in the facts of the present case, the investigating officer moved an application for addition of Section 409 of IPC and

accordingly, it was allowed. It is submitted by learned advocate for the applicant that in the year 2014-15, the proceedings under Sections 83 and 84 of

Cr.P.C. was being proceeded against the present applicant, thereafter, the applicant was enlarged on regular bail vide order dated 03.07.2021 passed

by the Court concerned. In this background facts, learned Sessions Judge failed to appreciate the fact that proclamation proceedings merged with

passing of regular bail order by the concerned Court. Thus, the application deserves consideration.

6. Considering the facts and circumstances of the case and the role attributed to the present applicant in the alleged offence, I find no reason to

decline pre-arrest bail to the applicant. In the result, the present application is allowed. The applicant is ordered to be released on bail in the event of

her arrest in connection with a FIR being C.R. No.I-15 of 2000 registered with CID Crime Gandhinagar Zone Police Station, District: Ahmedabad for

the offence punishable under Section 409 of IPC on her executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one surety of

like amount on the following conditions:

(a) shall cooperate with the investigation and make herself available for interrogation whenever required;

(b) shall remain present at concerned Police Station on 21.02.2022 between 11.00 a.m. and 2.00 p.m.;

(c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him

from disclosing such facts to the court or to any police officer;

(d) shall not obstruct or hamper the police investigation and not to play mischief

with the evidence collected or yet to be collected by the police;

(e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change her residence till

the final disposal of the case till further orders;

(f) shall not leave India without the permission of the Trial Court and if having passport shall deposit the same before the Trial Court within a week;

and

(g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would

decide it on merits;

7. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The

applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be

directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of

the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if,

ultimately, granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even

if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this

anticipatory bail order.

8. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

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