

(2024) 01 GUJ CK 0082

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Regular Bail - After Chargesheet) No. 961 Of 2024

Zala Kaushikji Rameshji @ Ramaji

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 16-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 363

Protection Of Children From Sexual Offences Act, 2012 — Section 4, 5(L), 6, 7

Citation : (2024) 01 GUJ CK 0082

Hon'ble Judges : Divyesh A. Joshi, J

Bench : Single Bench

Advocate : Tushar Chaudhary, Bhargav Pandya

Final Decision : Allowed

Judgement

Divyesh A. Joshi, J

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

2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with C.R. No. 11206045230049 of 2023 registered with the Mehsana City 'B' Division Police Station, District Mehsana for the offence punishable under Sections 363 of the Indian Penal Code and Section 4, 5(L), 6 & 7 of the POCSO Act.

3. Learned advocate Mr. Tushar Chaudhary appearing on behalf of the applicant has submitted that so called incident has occurred on 18.01.2023 and FIR was registered on 19.01.2023. The applicant was arrested on 28.08.2023 and since then he is in judicial custody. It is also submitted that the investigation is already completed and the present application is filed after submission of the charge-sheet. Learned advocate for the applicant has also submitted that it is found out

from the police papers that the applicant as well as victim girl are deeply in love with each other, the said fact is clearly found out from the statement of the victim which was recorded by the Investigating Officer during the course of investigation, wherein she has very categorically stated that they have developed relationship with each other and on her free will and volition, she eloped with the applicant-accused. Considering the above stated factual aspects, the present applicant may be enlarged on regular bail by imposing suitable terms and conditions.

4. Learned APP appearing on behalf of the respondent-State has opposed the present bail application. It is submitted that the role of the present applicant is clearly spelt out from the body of the compilation of the charge sheet papers. Considering the role attributed by the present applicant, the present application may not be considered.

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

6. 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. This Court has also considered the following aspects;

a) That the investigation has already been completed and charge-sheet has also been filed;

b) That the applicant-accused is in jail since 28.08.2023;

c) That there was a love affair between the applicant-accused and the victim girl and the victim girl on his free will and volition eloped with the applicant-accused.

7. 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.

8. 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.

9. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with C.R. No. 11206045230049 of 2023 registered with the Mehsana City 'B' Division Police Station, District Mehsana, 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. to 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 this Court;

10. 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.

11. 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.

12. The present application stands allowed accordingly. Rule is made absolute to the aforesaid extent.

Direct service is permitted.