

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION NO. 2751 of 2018

With

SPECIAL CRIMINAL APPLICATION NO. 2759 of 2018

With

SPECIAL CRIMINAL APPLICATION NO. 2760 of 2018

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YASMEENBEN ASLAMALI MAHAMMADALI

Versus

STATE OF GUJARAT

Appearance :

VIMAL A PUROHIT for the PETITIONER.

VISHAL S AWTANI for the PETITIONER.

MR RUTVIJ OZA, APP for the RESPONDENT.

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CORAM : HONOURABLE MR.JUSTICE A.J.DESAI

Date : 30/04/2018

COMMON ORAL ORDER

Leave to amend the prayer clause.

1. These applications are filed with a prayer to modify condition Nos.4,5,6 and 7 imposed on the applicant while granting bail to the applicant vide order dated 16.12.2017 by learned Sessions Judge, Narmada @ Rajpipla in Criminal Misc. Application No.372 of 2017, 373 of 2017 and 374 of 2017. Condition Nos.4,5,6 and 7 read as under :-

“4. not leave the limits of India till the investigation is over and trial is over without prior permission of the Sessions Judge concerned;

5. till the trial is over, shall mark presence at Rajpipla Police Station on 1st to 3rd day of each English Calendar month between 9.00 a.m. and 12.00 p.m.;

6. The applicant shall regularly remain present before the learned Trial Court till the trial is over;

7. surrender passport, if any, to the lower court within a week;

3. In the present applications, it is averred that the applicant is a citizen of United States of America. Her daughter is studying at the USA. Her husband passed away on 1.9.2017. It is also averred that the applicant came to India on 3.9.2017 and was arrested and thereafter, granted regular bail and in compliance of the order of granting bail to her, she has deposited her Passport. It is further averred that as per rules, a foreign citizen cannot stay in India for more than 180 days and hence, the applicant has preferred the present applications.

4. Learned APP appearing for the respondent – State has also urged this Court to direct the applicant to produce necessary papers of her visit. He urged to impose strictest conditions, if permitted, as requested for.

5. I have heard learned advocates appearing for the respective parties and perused the impugned orders passed by the learned Trial Court. Considering the above facts, these applications are partly allowed. The condition Nos.4,5,6 and 7 imposed on the applicant while granting bail to the applicant vide order dated 16.12.2017 by learned Sessions Judge, Narmada @ Rajpipla in Criminal Misc. Application No.372 of 2017, 373 of 2017 and 374 of 2017 are hereby suspended for a period of **two years** on the following conditions :-

(I) The applicant is permitted to leave India to go to United States of America. However, as and when the applicant arrives in India, she shall inform about the same to the concerned Police Station as well as the learned Trial Court.

(II) The applicant shall furnish her present address along with contact number at United States of America to the learned Trial Court as well as to the concerned Police Station. The applicant shall remain present at the time of trial, whenever her presence is required and she is called by the learned Trial Court.

(III) The applicant shall be returned her passport on depositing **Rs.50,000/- (Rupees Fifty Thousand) with two local sureties of Rs.25,000/- each** before the concerned trial Court. On depositing such amount as well as sureties, the trial Court shall hand over the passport to the applicant. The learned trial Court shall deposit the said amount in FDR in any Nationalized Bank for a period of two years. The applicant shall deposit the passport with the learned trial Court within a period of one week after a period of two years. On returning the passport, the learned trial Court shall release the deposited amount of **Rs.50,000/- (Rupees Fifty Thousand only)** to the applicant by Account Payee Cheque along with interest accrued thereon.

(IV) The applicant shall file an undertaking to the above effect before the learned Trial Court within a period of two weeks from today.

If breach of any of the above conditions is committed, the learned Trial Judge concerned will be free to issue warrant or

take appropriate action in the matter.

6. Rule is made absolute to the above extent. Direct service is permitted.

(A.J.DESAI, J.)

SAVARIYA