

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL MISC.APPLICATION NO. 10251 of 2018**

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SANJAYBHAI NATHABHAI CHAUHAN

Versus

STATE OF GUJARAT

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Appearance:

MRS NASRIN N SHAIKH(2451) for the PETITIONER(s) No. 1

MR L.B. DABHI, APP (2) for the RESPONDENT(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE A.Y. KOGJE

Date : 31/05/2018

ORAL ORDER

1. **RULE.** Mr.L.B. Dabhi, APP 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 I-CR No.95 of 2014 registered with Amreli City Police Station for offence under Sections 363, 366 and 376 of the Indian Penal Code and Sections 4, 8 and 18 of Protection of Child from Sexual Offences Act.

3. 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.

4. Learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

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. Following aspects are considered:-

I. The prosecutrix has already married with the applicant and out of the wedlock, one child is born;

II. The submission of the applicant that now the prosecutrix is residing with the applicant as wife;

III. No other antecedents are reported.

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.

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. The applicant is ordered to be released on regular bail in connection with I-CR No.95 of 2014 registered with Amreli City Police Station 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 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. 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 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.

11. 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 observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.

13. Rule is made absolute to the aforesaid extent.

Direct service is permitted.

(A.Y. KOGJE, J)

BHARAT