

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 4875 of 2021**

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USMANGANI @ SADDAM SIKANDARBHAI MALEK

Versus

STATE OF GUJARAT

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Appearance:

ADILHUSHAIN M SAIYED(9723) for the Applicant(s) No. 1

MR. RONAK RAVAL, APP for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE B.N. KARIA****Date : 31/05/2021****ORAL ORDER**

1. 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. I-03 of 2018 registered with Amod Police Station, District: Bharuch for the offence punishable under Sections 363, 366, 376, 506(2) and 114 of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Child from Sexual Offences Act, 2012.

2. 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.

3. Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence.

4. Having gone through the papers produced on record and after hearing the learned advocates appearing on behalf of the respective parties, it appears that the applicant has preferred a bail application previously before this Court vide Criminal Misc. Application No.

12948 of 2020 & the same was withdrawn with a liberty to file a fresh petition before the Sessions Court if trial is not commenced within a period of 4 months. It appears that by the order dated 06.05.2021, the applicant has produced a report with regard to the status of the trial before the Registry to this Court. It transpires that the trial has not commenced nor witnesses have been examined by the prosecution. Summons were issued to the witness nos. 13 and 14 by the District and Sessions Court and in view of the present Covid-19 pandemic situation and the guidelines issued by the High Court, the matter was adjourned on 11th May, 2021. Considering the fact that the applicant is in jail since 2018. Investigation is over and charge-sheet is filed and trial is not likely to be completed within a short period. Earlier, the applicant has filed an application before this Court for regular bail and the same has been withdrawn with a liberty to approach the Sessions Court if the trial is not commenced within a period of 4 months and as there is no progress of the trial, the prayer made in the application by the applicant requires consideration.

5. In the facts and circumstances of the case and considering the nature of allegations made against the applicant in the FIR, I am of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

6. 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. I-03 of 2018 registered with Amod Police Station, District: Bharuch 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] 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 the learned Sessions Court concerned;

7. 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.

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

**(B.N. KARIA, J)**

VISHAL MISHRA