

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 7098 of 2021**

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JIGNESHBHAI DAYABHAI SAGATHIYA

Versus

STATE OF GUJARAT

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Appearance:

MR ASHISH M DAGLI(2203) 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. 11189004210569 of 2021 registered with Morbi City "B" Division, Police Station, District: Morbi for the offence punishable under Sections 306, 498(A) and 114 of the Indian Penal Code, 1860.

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. Considering the facts of the case that the investigation is over and charge-sheet is filed and the arguments advanced by the learned advocate for the applicant as well as learned APP appearing for the respondent-State it appears that marriage period is 16 years and as a result of this wed lock, one daughter aged 13 years and son aged 10

years were born. It further appears from the FIR that there is no whisper of evidence that the applicant or any other family members have ever assaulted, beaten or abused the daughter of the complainant. The entire FIR is silent as to when and where the above allegations were conveyed by the departed soul to her sister or any member of the complainant. It further appears that during the entire 16 years of marriage life, there is no complaint either before the police authorities or before any court. Considering the fact that there were two children out of the said wedlock, the application 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. 11189004210569 of 2021 registered with Morbi City "B" Division, Police Station, District: Morbi 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] mark presence before the concerned Police Station fortnightly for a period of six months, between 11:00 a.m. and 2:00 p.m.;
- [f] 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.

8. Rule is made absolute to the aforesaid extent.

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

VISHAL MISHRA

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