

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 7228 of 2021**

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SAMIR @ BOKHO BABUBHAI RATHOD

Versus

STATE OF GUJARAT

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Appearance:

MR MAHESH K POOJARA(5879) for the applicants(s) No. 1,2,3,4,5,6

MR PRANAV TRIVEDI, ADDL. PUBLIC PROSECUTOR(2) for the

Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE S.H.VORA

Date : 30/04/2021

ORAL ORDER

1. **Rule.** Learned APP waives service of notice of Rule on behalf of respondent-State.
2. Heard learned advocate, for the applicants and learned APP, for the respondent-State through V.C.
3. This application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. registered at C.R. No. 11203055210108 of 2021 with Shil Police Station for the offences punishable under Sections 454, 457, 380, 381, 411, 114 of the IPC.
4. Heard and examined the papers placed for consideration in support of the submission made at bar.
5. Upon hearing submission, following picture emerges on

record :-

- (i) Substantial investigation is over.
- (ii) No past antecedent is registered qua the applicants.
- (iii) The offences alleged against the applicants are triable by Magisterial Court and considering the pendency before the concerned Magisterial Court, there is no likelihood of commencement and conclusion of trial within near future and therefore, refusal of bail will amount to pre-trial conviction, which is prohibited by law.
- (iv) The applicants have deep root in the society, no apprehension as to flee away or escape trial or tempering with the evidence /witnesses is expressed.
- (v) In view of above position emerging at the end of hearing, the application deserves consideration, but by imposing suitable condition to be observed by the applicants, pending investigation and trial.

6. Hence, the application is allowed and the applicants are ordered to be released on bail in connection with **C.R. No. 11203055210108 of 2021 with Shil Police Station, Junagadh** on executing a bond of **Rs.10,000/-(Rupees Ten Thousand only) each** with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that the applicants 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] not leave the territory of India without prior permission of the Sessions Judge concerned;
- [d] appear before the Investigation Officer concerned, as and when required for investigation purpose and attend the Court concerned regularly.
- [e] furnish the present address of residence along with the proof to the I.O. concerned and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of Sessions Court concerned;

7. The competent authority will release the applicants only if the applicants are 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 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. 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 applicants on bail.

8. Rule made absolute to the aforesaid extent. Direct service is permitted.

(S.H.VORA, J)

SHEKHAR P. BARVE