

**In The Court Of 2nd Addl. District & Sessions Judge
& Special Judge For Rape & POCSO Cases, Jamnagar.**

Criminal Misc. Application No. 1357/2022

Exh.05

APPLICANT :

Paresh Bhayabhai Hathaliya

Age 35 Years, Occupation: Business,

Residing near Amusement Park,

Jamnagar.

(Presently at District Jail, Jamnagar.)

VERSUS

OPPONENT :

The State of Gujarat

**Subject : Temporary Bail Application U/s.439 of
Cr.P.C.**

APPEARANCE :-

Mr. A. H. Joshi learned advocate for the applicant.

Mr. J. K. Bhandari, learned DGP on behalf of State.

:: J U D G E M E N T ::

[1] The brief facts of the present application is that the present applicant / accused has been arrested and he has been in Jail for long time for the offence registered before Jamnagar City 'C' Division Police Station vide C.R. No.178/14 for the offences punishable under Sections 376(g), 354(c), 306 etc. of the Indian Penal Code.

[2] The main contention in the present application is

that the applicant-accused has been in District Jail since long time for the complaint registered against him by the complainant on 16/10/2014 vide First Crime Register No.178/2014 for the offence punishable under Sec.306, 376(g), 354(c), 328, 323, 506(2), 114 of Indian Penal Code. Pursuant to it, the present applicant alongwith other co-accused were arrested on 20/10/2020 and sent to Judicial Custody, District Jail, Jamnagar as their presence was not required for investigation purpose and since then, the applicant is in Judicial Custody, District Jail Jamnagar.

- [3] It is further submitted that the mother of the applicant-accused is suffering from back pain and she needs to undergo an operation for it. It is

further submitted that the father of the applicant is also unable to stay together due to his illness and therefore, the presence of the applicant is necessary to perform his mother's operation, and therefore, it is necessary to release the applicant on bail for 20 days for the purpose to perform the operation of his mother and that, the applicant will strictly follow whatever the conditions imposed upon him by the Hon'ble Court. Hence, it is submitted by the Ld. Advocate for the applicant that the present application deserves to be allowed.

- [4] The Ld. DGP Mr. J. K. Bhandari has opposed the present application and has stated that the applicant / accused has been prima facie involved in the serious crime, that this is nothing but the pretext of

getting the bail any how and there are chances of absconding and interference with the investigation.

It is further urged that the accused has his other family members to look after his mother and therefore, his presence is not absolutely necessary for the care and treatment of his mother. The accused has a habit of giving such kind of applications for temporary bail time and again on frivolous ground. If the accused is released on temporary bail he is likely to jump bail. Therefore, the said accused should not be released on temporary bail and consequently his plea of temporary bail may kindly be rejected.

[5] Upon the perusal of the present application, record of the present application, it

clearly appears that earlier various bail applications of the present applicant is rejected by this Court. It further transpires that the present applicant has been facing very serious allegations as regards the rape. On perusal of police papers, it clearly appears that the accused has his father and other relatives who resides at Jamnagar to look after his mother at the time of her treatment from the report of the I.O. and the medical papers produced by the I.O. The applicant's mother statement has also been taken by the Investigating Officer wherein she states that she resides with her husband, her daughter-in-law and her grand-daughters and her other family members and relatives are residing at Jamnagar and Naghedi. Hence, it appears that the accused has his father and other family members to look after his mother

and therefore, his presence is not absolutely necessary for the care and treatment of his mother as alleged by him. Moreover, if the accused is released on temporary bail, the possibilities that, he may try to influence the witnesses could not ruled out. Thus, considering the gravity of the offence and role attributed to the present applicant – accused and also considering the fact that, the applicant's application is devoid of any cogent reasons, this court is not inclined to exercise discretion in favour of the applicant. Hence, I pass the following final order:-

ORDER

The present Criminal Misc. (Temporary Bail) Application No. 1357/2022 of applicant namely **Paresh**

Bhayabhai Hathaliya under Section 439 of Cr.P.C. is hereby rejected.

Signed & Pronounced in the open Court today on this 14th day of October, 2022.

Date : 14/10/2022

Place: Jamnagar.

(Arati Advait Vyas)

2nd Additional Sessions Judge &
Special Judge For Rape &
POCSO Cases, Jamnagar
(Unique ID Code: GJ00686)