

Received on : 19.10.2022
Registered on : 19.10.2022
Decided On : 21.10.2022
Duration : 00 00 02
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**IN THE COURT OF HON'BLE 3rd ADD. SESSION JUDGE;
MAHESANA, AT: VISNAGAR**

**Cr.M.A. No: 657/2022
Ex:**

Applicant

**: Patel Rajeshbhai @ Rajubhai
Aged: 56, Labour,
R/O. Kachhiya Street, Gadhemar,
Ta: Dholka Dist: Ahmedabad.**

Accused

V/s.

Opponent

: The State of Gujarat

Complainant

Ld. Adv. for the Applicant : Mr. I. U. Pathan

Ld. APP for the State : Mr. R. B. Darji

Application: U/S. 439 of The Cr.P.C. For the Regular Bail

JUDGMENT

The brief facts leading the present Application U/S. 439 of the CrPC are:

1. That, the present applicant has been arrested and detained in custody for the Offence punishable U/S. 465, 468, 471, 120B of the Indian Penal Code registered with Visnagar City Police Station Part-A CR No: 2564/2020. Hence, the present Application U/S. 439 of the CrPC.
2. The notice of this application is duly served to the IO, who has remained present through Ld. APP and has filed his Affidavit vide Ex: 6. Heard Ld.

Advocate for the Applicant. Heard Ld. APP and IO for the State. Perused the Record and police papers as well as list produced by the accused.

3. The Court has considered the ratio held by the Hon. Apex Court in the Case of ***Sanjay Chandra V/s. CBI, Criminal Appeal No: 2178 of 2011, dtd: 23.11.2011*** & ***State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21***, for considering the criteria while deciding the present Bail application.
4. Now, in the case on hand, the offence is registered U/S. 465, 468, 471, 120B of the Indian Penal Code, which is triable by the JMFC Court. It *prima facie* transpires from the Affidavit of IO and police papers that, the offence is committed on 13.10.2020, whereas the FIR is registered on 04.12.2020. So, there is a delay of about 2 months from the alleged cause of action. Moreover, it is an admitted fact for the Prosecution that the main accused and other co-accused having more grievous role than the applicant are released on bail by my Ld. Predecessor judge of this Court vide Orders dtd. 17.02.2021 and 26.02.2021 in CrMA(S) No: 48/2021 and 86/2021. even, all other co-accused have also been released on bail by the Ld. Predecessor Judge of this Court. So, the Applicant is also entitled for the bail on the ground of parity. So, I am inclined to exercise the discretion in favour of the present applicant-accused U/S. 439 of the CrPC, more particularly when the offence is *prima facie* based on matrimonial dispute and triable by JMFC, with out entering into the further merits of the Case. Hence, pass following conditional order in the interest of Justice:

O R D E R

1. The present Criminal Misc. Application U/S. 439(1) of CrPC is hereby allowed.
2. The applicant-accused, viz; Patel Rajeshbhai @ Rajubhai Ramanlal is hereby ordered to be released on Bail in connection with the offence punishable U/S. 465, 468, 471, 120B of the Indian Penal Code registered with Visnagar City Police Station A-Part CR No: 2564/2020, on furnishing a solvent surety of Rs. 10,000/- (Rupees Ten Thousand only), with a personal bond of like amount to the satisfaction of the Ld. Magistrate Court, subject to following conditions:
 - Applicant-accused shall not take undue advantage of liberty and shall extend full co-operation in investigation and remain present whenever called by the I.O. for investigation purpose.

- Applicant-accused shall mark his presence, after his actual release, on every 1st and 15th Day of English Calender month between 11.00 a.m. to 14.00 p.m. before the concerned Police Station, till commencement of trial.
 - Applicant-accused shall not, directly or indirectly, make any threat, inducement, or promise to the complainant or any person/witness acquainted with the facts of the case of prosecution, so as to dissuade him/her from disclosing such facts to the Court or to any police officer, or shall not act in the manner injurious to the interest of the prosecution.
 - Applicant-accused shall at the time of execution of bond, furnish his permanent address proof with contact numbers to the I.O. and the Ld. Magistrate concerned, and shall not change his residence without prior intimation of Ld. Magistrate Court.
 - Applicant-accused shall not leave the territory of India without prior permission of Ld. Trial Court.
 - If applicant-accused possesses the pass port, he shall surrender the same before the Investigating Officer within 3 days, after his release. If not, submit the affidavit to that effect before the Ld. Magistrate.
3. The Authorities will release the applicant only if not required in connection with any other offence for the time being.
 4. In case of breach of any condition, I.O./Ld. Magistrate may take legal recourse.
 5. Bail before the concerned Ld. Magistrate Court.
 6. At the time of trial, the Trial Court shall not be influenced by the observations of preliminary nature, qua the evidence, made by this Court while enlarging the applicants-accused on bail.
 7. Yadi accordingly to the Ld. Magistrate Court as well as the I.O.

Signed & Pronounced in open Court today on this 21st day of October, 2022.

Dt : 21.10.2022

Place : Visnagar

(M K UPADHYAY)
3rd ADD. SESSIONS JUDGE,
MAHESANA, AT: VISNAGAR
[JUDGE CODE: GJ00613]

Self