



**IN THE COURT OF 2ND ADDITIONAL SESSIONS JUDGE
DAHOD**

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Criminal Misc. Application No. 884 of 2022

Applicant/

Manojbhai Gorsingbhai Bhabhor

Accused:

Age : 20 Years, Occupation : Agriculture

Residing at : Kharoda, Kharoda Gamtal, Tal.
Dist. Dahod.

Versus

Opponent :

The State of Gujarat.

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Application u/s. 439 of Cr.P.C. for Regular Bail.

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APPEARANCE:

Ld. Counsel for the Applicant. : Mr. G.D.Prajapati

Ld. P. P. for the Opponent-State : Mr. P. J. Jain

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

1. The present application is preferred by the applicant under the provision of Section 439 of the Code of Criminal Procedure to grant the regular bail. The offences punishable under Section 363, 366, 114 of the Indian Penal Code and Section 4 & 6 of

Protection of Children from Sexual Offences Act had been registered against the applicant / accused person before the Dahod Rural Police Station vide Part "A" Crime Registration No.11821008220532/2022.

2. Ld. Counsel Mr. G.D.Prajapati appeared on behalf of the applicant/accused person submitted that the applicant is in judicial custody since 18.10.2022. He has further submitted that the applicant is innocent and he has not played any active role in the offence, however, the applicant is falsely implicated in this offence.
3. Ld. Counsel Mr. Prajapati has also submitted that the offence was occurred on 25.09.2022 and the complaint was given on 03.10.2022 and the complainant has not given any explanation regarding delay in filing the complaint.
4. Ld. Counsel Mr. Prajapati further submitted that there is love affair between the applicant and the victim and the victim herself gone to the Vadodara where the applicant was doing work, hence, no prima-facie case is made out against the applicant.
5. Moreover, the applicant is resident of Dahod Taluka and he will abide by all the terms and conditions. Therefore, the applicant/accused may be released on regular bail on any suitable conditions.
6. Ld. P.P. Mr. P.J.Jain appeared on behalf of the state has submitted that the present applicant/accused is facing charges of very serious crime against the chastity of women which is

punishable under Section 363, 366, 376(N) of the Indian Penal Code and Section 4 & 6 of Protection of Children from Sexual Offences Act. Ld. P.P. Mr. Jain has further submitted that at the time of offence, the age of victim was 17 years and the present applicant has kidnapped the minor victim with a view to marry with her and frequently made sexual intercourse with the victim therefore, prima facie case is made out against him.

7. The original complainant - victim's father has filed his affidavit through his Ld. Counsel Mr. V.N.Palas on 21.10.2022 and thereby strongly objected the present application for regular bail. The complainant has re-iterated all the contents of his complaint and further submitted that the applicant/accused has abducted his minor daughter by giving temptation to marry with her and made sexual intercourse with her, therefore, prima facie case is made out against him, hence, the applicant is not entitled for bail. He has also submitted that the victim was aged about 17 years at the time of offence, therefore, the bail application shall be rejected.
8. At this stage, it is not preferable to come into the merits of the case and to discuss the merits of this case, but, I only became found to entertain this bail application within the parameters of principle of personal liberty as well as allegations cited in the present complaint against the present applicant.
9. After hearing of the argument of both the side and on perusal of relevant record it reflects that since 18.10.2022 the applicant/accused is in judicial custody. The offence has been committed on 25.09.2022 and the complaint was given by the

complainant on 03.10.2022 and the complainant has not given proper explanation regarding delay in filing the complaint.

10. As per the birth certificate of the victim the date of birth of the victim is 02.09.2005, so, at the time of commission of offence she was aged about 17 years. I have also perused the statement of the victim, she was clearly stated that she was indulged in love with accused and she was frequently met with the accused. It is also reveals from the statement of the victim that the brother of the victim came to know regarding the relationship of the victim and the accused. Her brother also warned the victim not to maintain the love affair with the accused otherwise he will informed their parents, therefore, victim herself leave the house of her parents and went to Vadodara by bus and from Vadodara Bus Stand she herself made a call to accused and called him at bus stand and thereafter both were living as a husband and wife as both are having love affair to each other. Therefore, looking to the entire facts of this case there is no any inducement on the part of the accused. It is true that the victim was minor and in the eye of law her consent has no value, but, this is not a stage to decide the case on merits, but, only the facts are prima-facie appreciated for the purpose of deciding the bail application.
11. Moreover, the applicant/accused is residing at village Kharoda, Kharoda Gamtal, Tal. Dist. Dahod and also having roots in society. From the case papers of the investigation and affidavit filed by the Investigating Officer, it reveals that most of the investigation is completed and statements of the material

witnesses have been recorded. Therefore, personal presence of the applicant for further investigation is not essential and in backdrop of the fact that the applicant has no any criminal antecedent and the applicant has no such past criminal conduct, there is no any apparent endanger of tempering with the evidences and threatening the witnesses.

12. In case of **Sanjay Chandra V. CBI**, reported in **2012(1) SCC 40**, the Hon'ble Supreme Court has observed that at the time of deciding bail application following points should be considered by the Court.

- i. The nature of accusation ;
- ii. Gravity of offence ;
- iii. The status of the accused with reference to the victim and the witnesses ; and,
- iv. The stage of investigation ;

and the similar views have also taken by the Hon'ble Supreme Court in case of **Gurbaksh Singh Sibia Vs State of Punjab**, reported in **1980 AIR 1632**. Therefore, looking to the entire facts and circumstances as well as considering the stage of the case, this Court is inclined to enlarge the applicant-accused on bail with stringent conditions. Hence, in the interest of justice following order is passed.

: O R D E R :

- 1) This Present Criminal Misc. (Reg. Bail) Application **No. 884 of 2022**, is hereby **allowed**.
- 2) The applicant - **Manojbhai Gorsingbhai Bhabhor**, resident of the address shown in the cause title are hereby released on bail on furnishing personal bond of Rs. 15,000/- and one surety of like amount in connection with Part "A" Crime Registration No.11821008220532/2022 registered with Dahod Rural Police Station for the offence punishable under Section 363, 366, 376(N) of the Indian Penal Code and Section 4 & 6 of Protection of Children from Sexual Offences Act, subject to following conditions that ;
 - i. The applicant shall remain present as and when the Investigating Officer of this offence requires his presence for the investigation purpose and shall co-operate in the investigation;
 - ii. The applicant shall surrender his passport with this Court within seven days from the date of this order. If he does not possess passport, then file affidavit to that effect;
 - iii. The applicant shall furnish his mobile number and residential address with authenticated proof before the Court at the time of execution of the bond and shall not change the contact number along with address without prior permission of this Court;

- iv. The applicant shall not take undue advantage of the liberty or abuse his liberty;
- v. The applicant shall not try to tamper or pressurize the prosecution witnesses or complainant in any manner;
- vi. The applicant shall not in any manner be injurious to the interest of prosecution;
- vii. The applicant-accused person shall not leave the territory of Gujarat State for six months from the date of this order without prior permission of this Court;
- viii. The applicant-accused shall mark his personal presence on 01st date of every English Calender month till filing of chargesheet before the C.P.I., Dahod between 12.00 noon to 14.00 p.m.;
- ix. In case of breach of any of the above conditions the bail stands automatically canceled.

(3) Necessary yadi of this order be sent to the office of C.P.I., Dahod and concerned police station..

Pronounced and signed today, on this 01st day of November, 2022.

Date : 01/11/2022. **(Chandrapalsingh Kshetrapalsingh Chauhan)**

Place : Dahod

2nd Additional Sessions Judge &
Spl. Judge (POCSO)

Dahod.

[UIC No. GJ-00513]

H. J. Rathod