

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 15657 of 2024**

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SONDARVA MEET GIRISHBHAI
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1

MR. MANAN MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE SANDEEP N. BHATT

Date : 03/12/2024**ORAL ORDER**

1. Heard learned advocate Mr. Ashish Dagli for the petitioner and Ms. Vrunda Shah, learned APP for the respondent – State.

2. Learned advocate Mr. Ashish Dagli for the petitioner has submitted that the present petitioner is arrested pursuant to the FIR registered on 18.10.2024 under Sections 285, 296(b), and 54 of the Bharatiya Nagarik Suraksha Sanhita, 2023 as well as Section 56 of the Motor Vehicles Act. Thereafter, the petitioner was granted bail and he has further submitted that the petitioner was tortured by the officers and he has asked for CCTV footage as such incident has taken place in front of Police Station. Furthermore, he has submitted that during investigation of this FIR, mobile

phone of the present petitioner was recovered and thereafter, the petitioner was compelled to give password of mobile phone. As per second FIR, which is filed on 18.11.2024, on accessing the mobile, the Investigating Authority has found some photographs in WhathsApp chat and the other folders in mobile phone and pursuant to this, second FIR is filed under Section 67(b) of the I.T. Act and Sections 14(1) and 17 of the POCSO Act. Furthermore, he has submitted that even on bare reading of the FIR, qua Section 67(b) of the I.T. Act, no offence is made out against the present petitioner as the petitioner has not circulated the same in public. Lastly, he has relied upon the decision of this Court passed in **Criminal Misc. Application No.31761 of 2017 dated 16.06.2023**, more particularly, paragraph Nos.6 and 8 are relevant and has submitted that the second FIR, which is filed by the Police Authority is with a view to harassing the present petitioner as the petitioner has asked for CCTV footage of such incident and, therefore, he has prayed to grant the relief as prayed in the present petition as well as to grant protection to the present petition.

3. Ms. Vrunda Shah, learned APP for the respondent – State has submitted that officer of the concerned Police Station is present before this Court and has also tendered copy of the report dated 03.12.2024 received from Jetpur City

Police Station, whereby it transpires that there are four other offences, which are registered against the present petitioner and from the examination of mobile phone, the fact revealed that there are certain photographs, which can be considered as phone materials. Therefore, the offence is constituted under the provisions of POCSO Act and the provisions of I.T. Act. It is relevant to note that the present F.I.R. is registered on 18.11.2024, and the investigation is at the initial stage and therefore, pursuant to that second FIR, notice is given to the present petitioner, but the petitioner is yet not arrested.

4. Considering the submissions made at the bar, *prima facie*, case is made out and, therefore, the matter requires consideration. Hence, issue **NOTICE**, making it returnable on 30.01.2025.

5. No coercive action shall be taken against the present petitioner pursuant to the impugned FIR, however, the investigation shall go on and the present petitioner shall co-operative in the process of investigation. It is clarified that no charge-sheet shall be filed without prior permission of this Court.

(SANDEEP N. BHATT,J)

DIWAKAR SHUKLA