

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL APPEAL (REGULAR BAIL - BEFORE CHARGESHEET) NO.
1005 of 2024**=====
DHARMESHBHAI S/O. DINAKARRAY MANCHHARAM JOSHI & ANR.

Versus

STATE OF GUJARAT & ANR.
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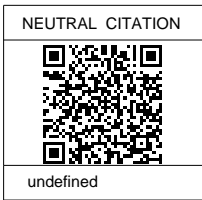
Appearance:

MR. JAL.S.UNWALA, SENIOR ADVOCATE with MR RUSHABH R
SHAH(5314) for the Appellant(s) No. 1,2

MR ADIL R MIRZA(2488) for the Opponent(s)/Respondent(s) No. 2

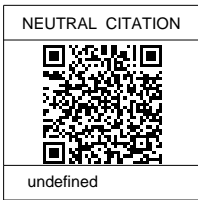
MR.H.K.PATEL, APP for the Opponent(s)/Respondent(s) No. 1
=====**CORAM: HONOURABLE MRS. JUSTICE M. K. THAKKER****Date : 28/05/2024****ORAL ORDER**

1. Learned senior advocate Mr.Jal.S.Unwala with learned advocate Mr. Rushabh Shah for the applicant seeks permission to withdraw the present application qua applicant no.1. Permission as prayed for is granted. Therefore, application is disposed of as withdrawn qua applicant no.1.
2. This application is filed seeking regular bail in connections with the F.I.R NO.11822009240363/2024 Registered with Chikhli Police Station. It is the case of the prosecution that the complainant is serving in the



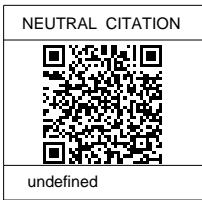
beauty parlour and staying with her grand parents as her father has expired and mother has left her and staying with another person namely Jitubhai Patel.

- 2.1. On 21.03.2024 she received a call from an unknown number and thereafter, she started speaking frequently on the said number. At that time, she came to know that the said person is namely Dharmesh Joshi. As the complainant desires to study further for which the applicant no.1 conveyed that he would help her and would take her to Nasik as he is having acquaintances there.
- 2.2. On 24.03.2024 the prosecutrix was called by Dharmesh Jodhi and they were accompanied in his car and thereafter, she was dropped at Daman Police Station. Again on 09.04.2021 under the guise that on the next day they would go to Nasik for making arrangements of further education of the prosecutrix.
- 2.3. On 10.04.2024 around 9:30 am she came to Navsari Toll Booth and thereafter called accused no.1 Dharmesh Joshi. He came in his Brezza Car and she was made to understand to sit in the car and thereafter one more person, i.e the present applicant, was taken into the

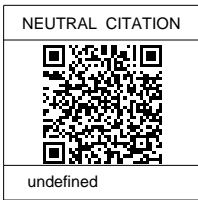


vehicle and all three persons went to travel in the car. The accused no.1 offered Thumbs Up cold drink to the prosecutrix, which she consumed and thereafter, she felt uneasy and became unconscious. When she regained her consciousness, she realized that there were no clothes on her body and she was having pain in her private parts and abdomen. On inquiring about the same she was threatened on knife point asking not to disclose anything to anyone. Thereafter, she was taken into the forest area and then dropped near the bus depot at Chikhli. The prosecutrix then traveled in a bus and came to Surat and consumed 18 paracetamol tablets at a time and as she started feeling dizzy, someone called 108 ambulance and she was admitted to Smimer Hospital, Surat. Thereafter, she lodged FIR for the offence punishable under section 376(1), 328, 366, 506(2), 114 of IPC and section 135G.P.Act and sections 3(1)(W)(1), 3(2)(5), 3(2), (5-A) of the Atrocity Act.

3. Heard Learned senior advocate Mr.Jal.S.Unwala with learned advocate Mr. Rushabh Shah for the applicant and Mr.Adil Mirza for the complainant and learned APP Mr.H.K.Patel for the respondent-State.



4. Learned senior advocate Mr.Jal.S.Unwala submits that admittedly as per the allegations made in the FIR the applicant no.2 has not committed any offence with regard to section 376. At the most, the allegations are with regard to abatement in the crime. Learned senior advocate Mr.Jal.S.Unwala submits that even from the averments made in the FIR it transpires that it is made to pressurize the accused person who was trapped in the instant case, applicant was arraigned as accused. Learned senior advocate Mr.Jal.S.Unwala by submitting this, has prayed to exercised the discretion in favour of the applicant no.2 and be released on regular bail.
5. On the other hand, learned advocate Mr.Adil Mirza for the complainant as well as the learned APP Mr.H.K.Patel for the State has submitted that at present investigation is under progress and under the pretext of helping the prosecutrix in her further studies the offence was committed by serving intoxicated cold drinks by accused no.1 and applicant no.2 has abated in the crime and therefore, it was prayed not to release the applicant on bail.
6. Considering the arguments advanced by the learned



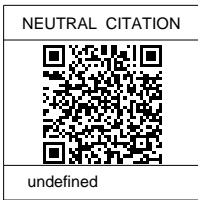
advocates for the respective parties and on perusing the investigation papers it transpires that the allegations are made accused no.2 of accompanying the accused no.1 in the car and all the allegations regarding rape is made against the accused no.1. Further, the investigation is almost concluded and at present the FSL report is awaited.

7. In view of the allegations against the present applicant, this Court deems it fit to exercise power by granting regular bail to the applicant no.2. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being 11822009240363/2024 registered with Chikhli Police Station on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that shall;

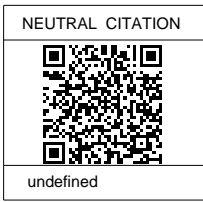
[a] not take undue advantage of liberty or misuse liberty;

[b] not act in a manner injurious to the interest of the prosecution;

[c] surrender passport, if any, to the lower court



- within a week;
- [d] not leave the India without prior permission of the concerned trial court;
- [e] mark presence before the concerned Police Station between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
- [f] furnish the present address of residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of the concerned trial court;
8. The authorities will release the applicant only if he is 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 issue warrant or 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.
9. At the trial, the Trial Court shall not be influenced by the



prima facie observations made by this Court in the present order.

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

ARCHANA S. PILLAI

(M. K. THAKKER,J)