

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER
CHARGESHEET) NO. 5562 of 2024

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PRAVINA D/O VALJI CHAD
Versus
STATE OF GUJARAT

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Appearance:

MR JAL S UNWALLA, SENIOR ADVOCATE WITH MR AFTABHUSEN
ANSARI(5320) for the Applicant(s) No. 1
MR RAHUL K DAVE(3978) for the Respondent(s) No. 1
MR L B DABHI, APP for the Respondent(s) No. 1

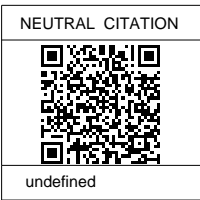
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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

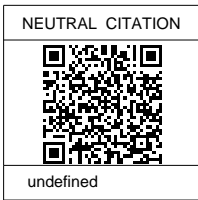
Date : 23/04/2024

CAV ORDER

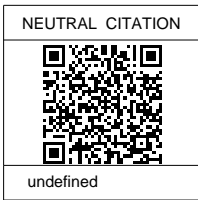
1. Rule. Learned APP waives service of notice of Rule for and on behalf of respondent - State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with C.R.No.11205047230409 of 2023 registered with Pragpar Police Station, Kachchh West Bhuj for the offence punishable under Sections 302, 427 and 120B of the Indian Penal Code.
3. Learned Senior Advocate Mr. Jal S. Unwalla assisted by learned advocate Mr. Aftabhusen Ansari appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions. It



is submitted that applicant being a lady accused has been arrested on 04.11.2023 and since then she is in judicial custody. Learned Senior Advocate Mr. Unwalla submits that investigation is already concluded and present application is filed after submission of charge-sheet. Learned Senior Advocate Mr. Unwalla further submits that the so-called incident is occurred on 20th October, 2023 and on the same day, FIR is filed against total four accused persons. Name of the applicant accused is not mentioned in the body of the FIR. Thereafter, during the course of investigation, present applicant accused has been arraigned as an accused under the charge of one of the conspirators of the conspiracy hatched by the accused persons to eliminate the deceased. Learned Senior Advocate Mr. Unwalla furtehr submits that present applicant accused is 23 years old lady and studying Bachelor of Arts and having bright future. That in fact on the date of incident she attended the college to appear in the examination and her presence was also noted in the Register. He also produced the copy of the receipt of hall ticket issued by the university, wherein, it is stated that on the fateful day of incident, applicant was far away from the place of occurrence. Learned Senior Advocate Mr. Unwalla further submits that present applicant accused basically belongs to Patri village and studying in a college at Bhuj

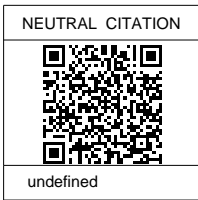


and distance between the said village Patri and Bhuj is approximately 30 to 35 kilometers and it would take approximately 45 to 50 minutes to reach there and applicant used moped for attending the class. The examination was scheduled at 10:30 a.m. and early in the morning at 8:00 to 8:30 a.m she had gone to the college for the purpose of appearing in the examination. Learned Senior Advocate Mr. Unwalla further submits that if this Hon'ble Court would go through the entire compilation of charge-sheet papers, in that event, it clearly goes on to show that only on the strength of statement made by one witness, involvement of the present applicant accused is found out and as per the say of the said witness, he has heard some conversations made between the family members wherein there is a mention about discussion of the incident of accident. Except that, no other specific material is collected against the applicant which would prove the involvement of the present applicant in the commission of crime. Learned Senior Advocate Mr. Unwalla further submits that statement of the said witness was recorded by the investigating officer under Section 161 of the CRPC and thereafter before the concerned Magistrate, statement of that witness was recorded under Section 164 of the CRPC and if this Hon'ble Court would make cursorily glance upon the



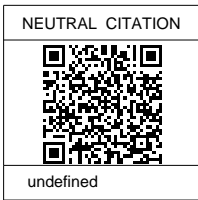
contents of those statements, in that event, it would be found out that there are material contradictions in the sequence of events of narration of facts in those two statements. Even otherwise, considering the tender age of the applicant accused, she may be enlarged on bail by imposing suitable terms and conditions.

4. Learned APP Mr. L. B. Dabhi appearing on behalf of the respondent-State has objected present application with vehemence and submitted that present applicant accused was elected as a Sarpanch of Patri village. At the time of contesting the election of Sarpanch, wife of the deceased had also filled-up the form but she could not get success in her attempt to elect the election. Learned APP further submits that there were inimical terms between the deceased and family members of the applicant due to which deceased has made applications to the various authorities and a movement in the form of an application of 'No Confidence Motion' was preferred by the deceased against the present applicant accused and due to the said 'No Confidence Motion', the applicant has been removed from the post of Sarpanch. Not only that on the strength of the application preferred by the deceased about the illegal digging/mining activities carried out by the family members of the applicant, the officers of the concerned Government Department had imposed fine of Rs.85



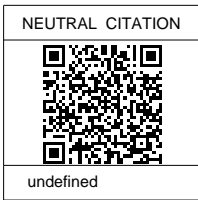
lakh upon the family members of the applicant. Therefore, with a sole intent to eliminate the deceased, a preplanned conspiracy has been hatched by all the family members and involvement of the present applicant accused in commission of crime is clearly spelt out from the statement of witness. Learned APP read the statement of the witness and submitted that applicant was found available at the relevant point of time and contents of the statement clearly goes on to show the involvement of the present applicant accused in the commission of crime. Hence, considering the above stated factual aspects, applicant may not be enlarged on bail.

5. Learned advocate Mr. Rahul Dave, who appears on behalf of the original complainant, has objected present application and submitted that involvement of the present applicant accused is clearly spelt out from the compilation of charge-sheet papers. He further submits that almost all points have been covered by learned APP but he would like to add that another FIR is registered against the present applicant accused wherein the investigation is carried out and ultimately charge-sheet is also filed. Therefore, considering the above stated factual aspects, role played by the applicant at the time of commission of crime as well as antecedent of the applicant, she may not be



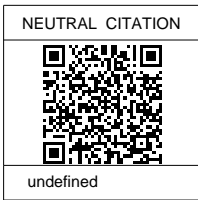
enlarged on bail.

6. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. It is found out from the record that applicant is a lady accused and she is in jail since 04.11.2023. The investigation is already concluded and charge-sheet is also filed. It is found out from the record that the so-called incident is occurred on 20th October, 2023 and on the same day, FIR is filed against total four accused persons. Name of the applicant accused is not mentioned in the FIR. Thereafter, during the course of investigation, present applicant accused has been arraigned as an accused under the charge of one of the conspirators of the conspiracy hatched by the accused persons to eliminate the deceased. It is found out from the record that in fact on the date of incident, the applicant attended the college to appear in the examination and her presence was also noted in the Register. Learned advocate for the applicant also produced the copy of the receipt of hall ticket issued by the university, wherein, it is stated that on the fateful day of incident, applicant was far away from the place of occurrence. It is also found out from the record that on the strength of the statement made by



one witness, involvement of the present applicant accused is found out and as per the say of the said witness, he has heard some conversations made between the family members, wherein there is a mention about discussion of the incident of accident. The applicant is a lady accused of 23 years age and she is pursuing her study of Bachelor of Arts. Thus, considering the above stated factual aspects and the role attributed by the applicant accused at the time of commission of crime, I am inclined to consider this application.

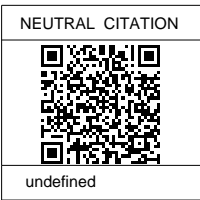
7. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**, reported in [2012]1 SCC 40 as well as in case of **Satender Kumar Antil v. Central Bureau of Investigation & Anr.** reported in (2022)10 SCC 51.
8. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, *prima facie*, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.
9. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with **C.R.No.11205047230409** of 2023 registered with



Pragpar Police Station, Kachchh West Bhuj, on executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety of the like amount to the satisfaction of the trial Court and subject to the conditions that she 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 State of Gujarat without prior permission of the Sessions Judge concerned;
- [e] mark presence before the concerned Police Station on alternate Monday 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 this Court;

10. The authorities will release the applicant only if she 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.

11. At the trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.
12. The present application stands allowed accordingly. Rule is made absolute. Direct service is permitted.

LAVKUMAR J JANI

(DIVYESH A. JOSHI, J)