

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 7816 of 2024**

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SANJAYKUMAR BHIMJIBHAI SONI
Versus
STATE OF GUJARAT

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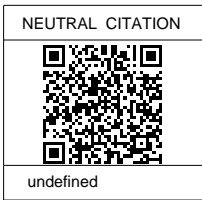
Appearance:

MR MM SAIYED(1806) for the Applicant(s) No. 1
MR NEEL P LAKHANI(10679) for the Respondent(s) No. 1
MR LB DABHI, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 09/05/2024****ORAL ORDER**

1. Rule returnable forthwith. Learned APP waives service of notice of rule for and on behalf of the respondent-State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with the FIR being **C.R. No.11210015230104 of 2023 registered with the DCB Police Station, Surat**, for the offence punishable under Sections 409, 420, 120(B) and 114 of the Indian Penal Code.
3. Learned advocate appearing on behalf of the applicant submits that the present application is preferred after submission of charge-sheet. Learned advocate for the applicant has also submitted that the investigation has already been completed and charge-sheet has also been filed. Learned



advocate submitted that the so-called incident has taken place for the period between January 2022 to December 2022, for which the FIR has been lodged on 12.07.2023. Learned advocate submitted that the FIR has been filed against total 03 accused persons and the present applicant is shown at sr. no.1. The wife of the present applicant-accused, who is accused no.2 and she is already enlarged on anticipatory bail by the concerned trial Court as she had conceived pregnancy at that relevant point of time. Learned advocate for the applicant has submitted that all the offences are exclusively triable by the court of Magistrate. Learned advocate further submits that the investigation is already concluded and whatever documents upon which the reliance has been placed by the prosecuting agency, have already been collected by the IO during the course of investigation. Therefore, there is no chance to tamper with the documents. Learned advocate further submits that the matter is amicably settled between the parties outside of the court and the wife of the applicant-accused has filed an undertaking. The contents of the undertaking are as under:-

"I, Pariben w/o. Sanjaykumar Bhimjibhai Soni, aged 27 address 138, Pink City Society, Ranakpur Road, near Jalaram Temple, Deesa, do hereby solemnly affirm and hereby undertake as follows.

1. That the complainant has filed an FIR against me, my husband and brother. That now, settlement has arrived with complainant, to the effect that on release of applicant on bail, I have to give him cheques of Rs.99 lakhs towards settlement of dispute with complainant. Therefore, I undertake to give cheques to the tune of Rs.99 lakhs of different date to complainant on release of applicant on bail. With a view to so our bonafide I also undertake to



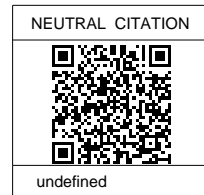
deposit Rs.79,85,000/- before the trial Court at Surat in event of release of applicant on bail That I shall deposit such amount before the Trial Court within a period of 3 months commencing from date of release of applicant on bail.

2. I hereby undertake that on release of applicant on bail, I shall deposit amount of Rs.79,85,000/- (Rupees Seventy Nine Lakhs Eighty Five Thousand only) before Trial Court at Surat within 3 months of his release and this deposit would be without any prejudice to our right and contentions in the case. That the amount deposited shall be invested by trial court in fixed deposit and shall not be disbursed to complainant or any witness person. That this deposit will be subject to outcome of final decision in trial of case."

Learned advocate further submits that the matter is settled with the complainant also. Under the circumstances, learned advocate for the applicant prays that considering the role attributed to the applicant-accused, the applicant may be enlarged on bail on any suitable terms and conditions.

4. Mr. Neel Lakhani, learned advocate appearing for the respondent - complainant submits that the complainant has no objection, if the bail application of the present applicant-accused would be entertained.

5. The learned APP appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is submitted that the specific role of the present applicant is clearly spelt out from the papers of charge-sheet. Learned APP has submitted that considering the role attributed to the applicant-accused, this is a fit case wherein discretionary power of this Court is not required to be



exercised in favour of the applicant-accused.

6. The learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

7. 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. This Court has also considered the following aspects;

a) That the investigation has already been completed and charge-sheet has also been filed;

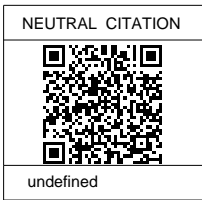
b) That all the offences are exclusively triable by the court of Magistrate;

c) That the documents upon which reliance has been placed by the prosecuting agency, have already been collected by the IO during the course of investigation;

d) That the matter is amicably settled between the parties outside of the court and the wife of the applicant-accused has filed an undertaking to that effect.

8. 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.

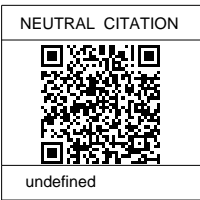
9. In the facts and circumstances of the case and



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.

10. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in connection with the FIR being **C.R. No.11210015230104 of 2023 registered with the DCB Police Station, Surat**, 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 he 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;



[g] shall deposit an amount of Rs.79,85,000/- within three months from the date of his release without prejudice to his rights and contentions before the concerned trial Court and shall also file an undertaking within a weeks from the date of his release reiterating the facts as narrated in undertaking filed before this Court.

11. 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.

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

A. B. VAGHELA

(DIVYESH A. JOSHI,J)