

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION (FOR SUCCESSIVE REGULAR BAIL -
AFTER CHARGESHEET) NO. 8234 of 2024**

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RAJ SHAILESHBHAI MAKWANA
Versus
STATE OF GUJARAT

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Appearance:

MR. MAULIK M SONI(7249) for the Applicant(s) No. 1
MS MONALI H BHATT, APP for the Respondent(s) No. 1

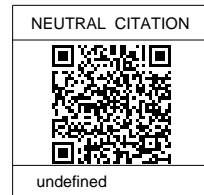
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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

Date : 18/06/2024

ORAL ORDER

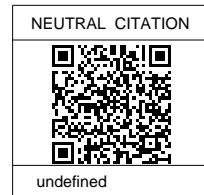
1. Rule returnable forthwith. Learned APP waives service of notice of rule for and on behalf of the respondent-State.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with the FIR being **C.R. No.11208053230359 of 2023 registered with the Rajkot Taluka Police Station, Rajkot**, for the offence punishable under Sections 363, 366, 376(2-N), 506(2) of the Indian Penal Code and under Sections- 4 & 6 of The Protection of Children from Sexual Offences (POCSO) Act.
3. Learned advocate appearing on behalf of the applicant submits that the present successive bail application is preferred by the applicant after submission of chargesheet.



Learned advocate submits that the investigation has already been completed and chargesheet has been filed. He further submits that the age of the victim is 16 years and 03 months and during the course of investigation, the statement of the victim is recorded by the Investigating Officer. If Hon'ble Court would make cursorily glance upon the contents of the statement, in that event, it is found out that they developed physical attraction towards each other, which ultimately culminated in the love affairs between the accused and victim. He further submits that now the evidence of the victim is recorded, wherein, she had not supported to the case of the prosecution. He has tendered the copy of the deposition of the victim across the bar, which is ordered to be taken on record. He further submits that the present applicant - accused has been arrested on 17.04.2023 and since then he is in jail. Considering the above-stated factual aspect as well as role attributed to the applicant-accused, the applicant may be enlarged on bail on any suitable terms and conditions.

4. 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.

5. The learned advocates appearing on behalf of the



respective parties do not press for further reasoned order.

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. This Court has also considered the following aspects;

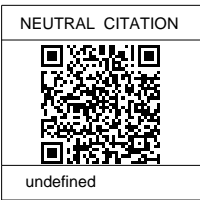
a) That the investigation has already been completed and charge-sheet has also been filed;

b) That the deposition of the victim is recorded and she has not supported the case of the prosecution and declared as hostile;

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.

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.

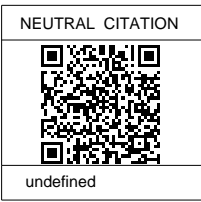
9. Hence, the present application is allowed and the applicant is ordered to be released on regular bail in



connection with the FIR being **C.R. No.11208053230359 of 2023 registered with the Rajkot Taluka Police Station, Rajkot**, 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;

10. 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.



11. 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. 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)