

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL MISC.APPLICATION NO. 8314 of 2024
(FOR SUCCESSIVE REGULAR BAIL - AFTER CHARGESHEET)**

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ANJANABEN W/O BHAVINBHAI DEVSHANKERBHAI MODHA
Versus
STATE OF GUJARAT
=====

Appearance:

MR SANDEEP R LIMBANI(5977) for the Applicant(s) No. 1
MR DHAWAN JAYSWAL APP for the Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI

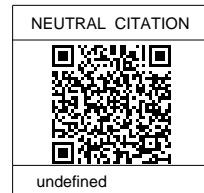
Date : 08/05/2024

ORAL ORDER

1. 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.11208057230026/2023 registered with the Cyber Crime Police Station, Rajkot for the offence punishable under Sections 354A, 354C, 376, 376D, 498A, 506(2), 508, 509, 34 and 114 of the Indian Penal Code and under Sections 66(e) and 67(a) of the Information Technology Act, which is a successive bail application after the rejection of earlier bail application being Criminal Misc. Application No.20522/2023 by detailed order dated 08.12.2023.
2. Learned advocate for the applicant submitted that the so-called incident has taken place on 01.09.2022, for which, the FIR has been lodged on

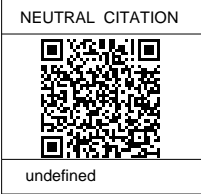


13.08.2023 and the applicant has been arrested in connection with the same on 01.09.2022 and since then, he is in judicial custody. Learned advocate submitted that now the investigation is completed and after submission of the chargesheet, the present application is preferred. Learned advocate submitted that admittedly this is a successive bail application filed by the applicant after the rejection of earlier bail application being Criminal Misc. Application No.20522/2023 by detailed order dated 08.12.2023 on the ground of settlement. Learned advocate submitted that the original complainant has sworn an affidavit, copy of which is produced at Page No.55 of the compilation, wherein she has stated in a very categorical terms that the issue between the applicant and the original complainant is now cleared and amicably settled and, hence, she has no objection if the bail is granted to the applicant. In support of aforesaid contention, learned advocate has placed reliance upon the decision of the Hon'ble Supreme Court delivered in case of Kapil Gupta Vs. State of NCT of Delhi & Anr in Criminal Appeal No.1217/2022 (@ SLP (Cri) No.5806/2022) by judgment dated 10.08.2022 and submitted that in the said case, the Hon'ble Supreme Court has considered the ground of settlement and FIRs were quashed. It is, therefore, urged that considering the nature of the offence, the applicant may be enlarged on



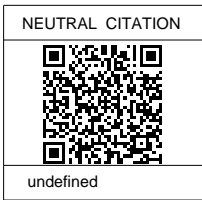
regular bail by imposing suitable conditions.

3. Learned APP for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. Learned APP submitted that admittedly the present application is successive bail application after the rejection of earlier application by detailed order and except the ground of settlement, there is no chanced circumstances for filing the present application. Learned advocate submitted that considering the serious allegations leveled in the FIR against the accused persons, this application may not be considered. It is, therefore, urged that the present application may not be entertained not only on the ground of merits but also on the ground of settlement.
4. 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. I have also considered the reasoning given by the concerned court while rejecting the bail application and the affidavit filed by the IO opposing the said application.
5. It is the settled position of the law that, at this juncture detailed discussion of evidence and canvassing of the allegations contained in FIR as well as affidavit of the concerned Investigating Officer or the merits of the case as well, is not



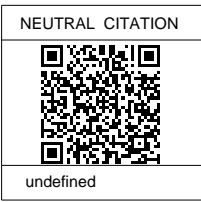
necessary and should be avoided.

6. It is required to be noted at this stage, this is a third application filed by the applicants before this Court i.e. one before submission of the chargesheet, which was withdrawn; second after submission of the chargesheet, which was rejected by detailed judgment as stated above and this is third one on the ground of settlement. It is, however, required to be noted that earlier bail application, which was filed after submission of the chargesheet was rejected by this Court by detailed judgment after considering the submissions made on behalf of the applicant and after passing of the said order, admittedly there is no changed circumstances except the ground of settlement.
7. Therefore considering the above facts, when a specific query was raised by this Court to the effect that on the ground of settlement, quashing petition can be filed, at that time, it is stated that today itself, quashing petition was filed, wherein the Coordinate Bench of this Court has kept the said matter for orders but he has fairly stated that the Coordinate Bench is not inclined to entertain the said quashing petition. Even this Court is also not inclined to entertain the present application on the ground of settlement considering the serious allegations leveled against the accused persons. Not only that, as stated above, at the time of rejecting earlier



application, reasons are assigned by this Court and, thereafter, there is no changed circumstances, under which, this Court can exercise discretion in favour of the applicant.

8. The Court has also gone through the decision relied upon by the learned advocate for the applicant. In the said decision, the Hon'ble Supreme Court has quashed the FIRs registered against the accused concerned on the ground of settlement but here in this case on hand, the present application is filed for bail pending trial. Therefore on the ground of settlement, the applicant can file quashing petition but the applicant has availed by filing quashing petition but as stated by learned advocate for the applicant, the Coordinate Bench of this Court is not inclined to entertain the said application. Therefore there cannot be any dispute with regard to the ratio laid down in the same. However, in the facts and circumstances of the case on hand and this being discretionary relief, which requires to be granted judiciously, the said decisions would be of no help to the present applicant at this juncture.
9. Over and above that, as there is no changed circumstances shown by learned advocate for the applicant after the rejection of earlier bail application by detailed judgment, this application cannot be entertained and is hereby rejected.



10. However, the concerned trial court is hereby directed to proceed with the trial and conclude the same as expeditiously as possible without being influenced by the observations made by this Court in the present order.

Sd/-
(DIVYESH A. JOSHI, J.)

Gautam