



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/CRIMINAL MISC.APPLICATION (FOR REGULAR BAIL - AFTER**  
**CHARGESHEET) NO. 9432 of 2024**

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HARKIRATHSINH PRITAMPALSINH OSHAN  
Versus  
STATE OF GUJARAT

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Appearance:

JAYDEEP H SINDHI(9585) for the Applicant(s) No. 1  
MR. UTKARSH SHARMA, APP for the Respondent(s) No. 1  
MR. M.B. RANA FOR MR. MAYUR DHAMELIYA for the Original Complainant

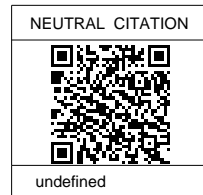
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**CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE**

**Date : 16/05/2024**

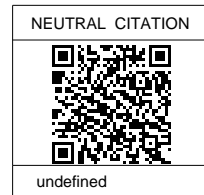
**ORAL ORDER**

1. Learned advocate Mr. M.B. Rana informs the Court that learned advocate Mr. Mayur Dhameliya has received instructions to appear on behalf of original complainant and he shall file his appearance on behalf of original complainant.
2. Permission to file the Vakalatnama is granted. Registry to accept the same.
3. **Rule.** Learned APP waives service of notice of Rule on behalf of respondent-State and learned advocate Mr. M.B. Rana appearing for learned advocate Mr. Mayur Dhameliya, waives service of notice of rule for and on behalf of original complainant.
4. This application is filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with F.I.R. registered as C.R.No.11822001210008 of 2021 with Navsari Mahila Police



Station, District- Navsari, for the offences punishable under Sections 498(A), 323 and 114 of the Indian Penal Code.

5. Learned advocate for the applicant at the outset has submitted that present applicant is arraigned as accused no.1. He is residing at Hyderabad. He was initially enlarged on bail in respect of offence alleged. The mother and the younger brother of the applicant were also arraigned as accused nos.2 and 3 and were also released on bail. That pending trial, the parties has negotiated and compromise was arrived. An amount of Rs.10,50,000/- was agreed to be paid to original complainant where by an amount of Rs.1,50,000/- was paid through cheque, Rs. 90,000/- by cash on 05.08.2023 and Rs.50,000/- cash on 04.07.2023. The relevant documents were placed on record during the course of arguments. It was further submitted that applicant under bona fide belief about proceedings to be not pressed in light of settlement and therefore choose not to appear in trial. Even otherwise he was represented by lawyer. The trial court in absence of applicant and his mother and brother issued non-bailable warrants on 04.01.2023, 01.06.2023, 08.06.2023, 28.09.2023, 12.12.2023, 16.01.2024 and 28.02.2024. The said NBW was served and the applicant has arrested on 07.04.2024. It was submitted that the accused have approached concerned court seeking bail which was registered as Cr.M.A. No.339 of 2024. The learned trial court partly allowed the said application enlarging the mother and his younger brother; however, refused the release the applicant considering the gravity of offence alleged against present applicant who is the husband of original complainant. The applicant has therefore approached this Court. It is further submitted that the trial is at the verge of final arguments. The applicant assures to adhere to any strict



conditions which may be imposed by this Court. Learned advocate for the applicant submits that considering the nature of offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

6. The learned APP opposes the grant of bail looking to the nature and gravity of offences. Learned advocate for the respondent-complainant has vehemently objected and has submitted that as per compromise, the applicant has not paid remaining amount. He has relied upon observations of the trial court recorded while refusing bail.

7. Learned advocates appearing on behalf of the respective parties do not press for further reasoned order.

8. Having heard the learned advocates for the respective parties and perused the papers of investigation, I am inclined to exercise discretion in favour of the applicant for the following reasons :

(1) Noticing the nature of offence, the trial court has initially enlarged the applicant on bail by order dated 03.11.2021;

(2) The applicant has acted in terms of compromise by making payment of Rs.2,90,000/- and has shown his readiness to act as per compromise;

(3) The trial is at the verge of final arguments.

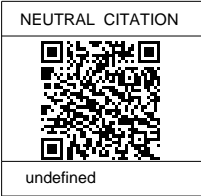
9. This Court has taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation** reported in **[2012] 1 SCC 40**.

10. In the facts and circumstances of the case and considering the



nature of allegations made in the FIR and without discussing the evidence in details as well as without going into details, prima-facie, this Court is of the opinion that this is a fit case to exercise the discretion to enlarge the applicant on bail. Hence, the application is allowed and the applicant is ordered to be released on bail in connection with F.I.R. registered as **C.R.No.11822001210008 of 2021 with Navsari Mahila Police Station, District- Navsari, for the offences punishable under Sections 498(A), 323 and 114 of the Indian Penal Code** on executing a 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;

- (a) not take undue advantage of liberty or misuse liberty;
- (b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the trial and shall not play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not leave India without prior permission of the Trial Court concerned;
- (e) shall appear on the every dates which may be fixed by trial court unless exempted.
- (f) furnish the present address of his 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 Trial Court;
- (g) shall undertake before the trial court that he shall not commit any breach of conditions hereinabove.



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

SUYASH SRIVASTAVA

**(NISHA M. THAKORE,J)**