

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 21062 of 2022**

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SIKANDAR KASAMBHAI SUMRA

Versus

STATE OF GUJARAT

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Appearance:

DARSHAN M VARANDANI(7357) for the Applicant(s) No. 1

MS MAITHILI MEHTA, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE SAMIR J. DAVE****Date : 24/11/2022****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 bail application is filed under Section 439 of the Code of Criminal Procedure by the applicant for regular bail in connection with an FIR being C.R.No. I-11993004220246 OF 2022 registered with Bhachau Police Station Kachchh East Gandhidham for the offence punishable under Sections 376, 506(2) of the Indian Penal Code and Sections 67-A of the Information Technology Act 2000.
3. Learned advocate for the applicant submits that the application was arrested on 01.08.2022 and during the arrest panchnama, the mobile of the applicant was seized by the police and during investigation, nothing objectionable was

found from the mobile phone of the applicant. That, the statement of the hotel owner also clearly indicates that the applicant and the complainant had gone in the room voluntarily and nothing untoward had happened. That the applicant had filed an FIR prior in point of time and as a counter blast present FIR is lodged by the complainant. That, there are no injuries found on the body of the complainant/victim and there is no presence of the semen as per the panchnama. That, the panchnama of place of incident does not indicates any incriminating material. That, investigation of the present offence has been completed and the investigating officer has filed charge sheet against the present applicant. That, considering the nature of allegations, role attributed to the applicant, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. That, the applicant is involved in the serious offence as alleged and therefore, no leniency view would be taken in favour of the applicant while releasing him on bail. Ultimately, it was submitted by learned APP for the respondent-State to reject present application.

5. Having heard learned advocate for the applicant and learned APP for the respondent-State as well as papers produced on record, it appears that in connection with the FIR being C.R.No. I-11993004220246 of 2022 registered with Bhachau Police Station Kachchh East Gandhidham for the offence punishable under Sections 376, 506(2) of the Indian Penal Code and Sections 67-A of the Information Technology Act 2000 and charge sheet has been filed by the investigating officer on 17.08.2022 and thereafter, the applicant approached the learned Sessions Court concerned by way of Criminal Misc. Application No. 411 of 2022 for regular bail but the same was rejected.

6. From the record, it appears that while considering the conclusion arrived at by the learned Sessions Court concerned that at the time of rejecting the bail application being Criminal Misc. Application No. 411 of 2022, learned sessions court concerned has observed that the allegation against the applicant is to call the victim in the guest house and committed rape against her will and wish. It was further observed that the indecent photographs and video of the complainant had been made viral by the applicant through media. Thus, while considering the act of the applicant against the women and society, the prayer of the applicant was rejected by the learned

Sessions Court concerned.

7. It further appears that the applicant has been arrested in the serious offence as mentioned above and the allegations against the present applicant is serious in nature and thus, while considering the application for bail, the court should have to consider the gravity and role of the applicant. Not only that, the court should have to also consider the social impact of the offender also. It further appears that while rejecting the bail application, the learned Sessions Court concerned has taken observation about seriousness of the offence and that cannot be avoided.

8. Thus, as per aforesaid observations, this court deems it fit that the learned Sessions Court has not committed any error in rejecting the bail application of the present applicant and therefore, the prayer of the applicant requires rejection.

9. Present application stands rejected. Rule stands discharged.

**(SAMIR J. DAVE,J)**

K. S. DARJI