

Gujarat High Court

Bipinchandra vs State on 26 August, 2010

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Gujarat High Court Case Information System

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CR.MA/11439/2005

4/ 4 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL
MISC.APPLICATION No. 11439 of 2005

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BIPINCHANDRA
KHEMABHAI PATEL - Applicant(s)

Versus

STATE
OF GUJARAT - Respondent(s)

=====

Appearance
:
MR
MA KHARADI for
Applicant(s) : 1,
MS ML SHAH, APP for Respondent(s) :
1,
=====

CORAM

:

HONOURABLE

MR.JUSTICE R.P.DHOLAKIA

Date
: 10/10/2005

ORAL
ORDER

Rule.

Ms.M.L.Shah, learned APP waives service for State.

Heard learned counsel for the petitioner, Mr.Kharadi and learned APP, Mr.K.P.Raval, for the State. Mr.Raval has also produced xerox copy of the school leaving certificate.

The petitioner is facing the offence under Sec.363, 366, 376 and 114 of IPC based on the complaint registered with Limdi Police Station being C.R.No.17 of 2005. The petitioner was arrested on 31-8-2005 and since then he is in judicial custody. It has been mainly argued by learned counsel for the petitioner that xerox copy of the school leaving certificate produced by learned APP shows the age of victim to be above 16 years. He has taken me through the affidavit filed by the victim wherein she has narrated her age as 19 years. There is also xerox copy of marriage registration certificate wherein also, age of the victim is shown as 19 years. It reflects from the papers that it is a love affair between the petitioner and the victim and they are legally wedded husband and wife. In view of the above, it is submitted that the petitioner may be released on bail.

It is to be noted that age of the victim is above 16 years as per the xerox copy of the school leaving certificate produced by learned APP. Moreover, her age is 19 years as per the statement given by the victim and also as per xerox copy of the marriage registration certificate. Keeping in mind the above and also that it is a love affair, keeping in mind the case S.Varadarajan Vs. State of Madras, reported in AIR 1965 S.C. 942, this petition is required to be allowed.

This petition is allowed and he is ordered to be released on bail in connection with Limdi Police Station being C.R.No.I-17 of 2005 for the offence alleged against him in this petition on his executing bond of Rs.5,000/- (Rupees Five Thousand only) with one surety of the like amount to the satisfaction of the lower Court and subject to the conditions that he shall-

- a) not take undue advantage of liberty or abuse liberty;
- b) maintain law and order;
- c) not act in a manner injurious to the interest of the prosecution;

d) furnish the present and permanent address of residence to the I.O. 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;

e) mark presence before the concerned Police Station once in a month more particularly between 1st and 10th of month between 10.00 a.m. and 2.00 p.m. for six months;

f) not leave the limit of State of Gujarat without prior permission of the Court; and

g) surrender passport, if any, within a week to the lower Court.

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 before the lower Court having jurisdiction to try the case.

Rule is made absolute. Direct service is permitted.

(R.P.DHOLAKIA,J.) radhan/ Top