

Sanjaybhai vs State on 22 March, 2010

Author: H.B.Antani

Bench: H.B.Antani

Gujarat High Court Case Information System

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CR.MA/2056/2010 1/ 4 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL
MISC.APPLICATION No. 2056 of 2010

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SANJAYBHAI
BABUBHAI PATEL - Applicant(s)

Versus

STATE
OF GUJARAT - Respondent(s)

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Appearance :
MS.
KRUTI M SHAH for Applicant(s) : 1,
MS TRUSHA K PATEL, APP for
Respondent(s) :
1,
=====

CORAM

:

HONOURABLE

Date
: 22/03/2010

ORAL
ORDER

1. This is an application preferred under Section 439 of the Code of Criminal Procedure by the applicant who came to be arrested in connection with CR No. I-176 of 2009 registered at Adajan Police Station, Surat for the offence punishable under Sections 306, 498A and 114 of the IPC and Sections 3 and 7 of Dowry Prohibition Act as well as Sections 3 and 31 of Domestic Violence Act. In the facts and circumstances of the case and by consent of both the sides, this application is taken up for hearing today.

2. Learned advocate Ms Kruti M Shah for the applicant submitted that the applicant is an innocent person and the marriage span of the deceased with the applicant is of 12 years. Considering the aforesaid aspect and the role attributed to the applicant, he deserves to be enlarged on bail. Learned advocate for the applicant submitted that even provisions of Section 306 cannot be invoked in the present case and therefore, the applicant deserves to be granted bail as prayed for in the application.

3. Ms Trusha K Patel, learned APP for the State, while opposing the bail application, submitted that the applicant is involved in a serious offence punishable under Sections 306, 498A and 114 of the IPC and Sections 3 and 7 of Dowry Prohibition Act as well as Sections 3 and 31 of Domestic Violence Act. Considering the role attributed to the applicant and the manner in which the offence is committed, no discretionary relief be granted to the applicant and the application deserves to be dismissed.

4. Having considered the rival submissions and on perusal of the role attributed to the applicant, police papers, statement of witnesses, the report of FSL, quantum of punishment, provisions of Sections 306, 498A and 114 of the IPC and Sections 3 and 7 of Dowry Prohibition Act as well as Sections 3 and 31 of Domestic Violence Act, etc., I am of the view that the applicant requires to be enlarged on bail without discussing in detail the evidence on record of the case.

5. In the facts and circumstances of the case, the application is allowed and the applicant is ordered to be enlarged on bail in connection with CR No. I-176 of 2009 registered at Adajan Police Station, Surat on executing a bond of Rs.20,000/- [Rupees twenty 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 his liberty or abuse his liberty;

[b] not act in a manner injurious to the interest of the prosecution;

[c] surrender his passport, if any, to the lower Court within a week;

[d] not leave the State of Gujarat without the prior permission of the Sessions court concerned;

[e] mark his presence at the concerned Police Station on any day of every first week of English calendar month between 9.00 AM and 2.00 PM. till the trial is over;

[f] furnish the present address of his residence to the I.O. and also to the Court at the time of execution of the bond and shall not change his residence without prior permission of this Court;

[g] maintain law and order.

6. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free to issue warrant or to take appropriate action in the matter.

7. Bail bond to be executed before the lower Court having jurisdiction to try the case.

8. 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.

9. Rule is made absolute to the aforesaid extent.

Direct Service is permitted.

[H.B. Antani, J.] mrpandya