

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 13013 of 2022**

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DOLLY SURENDRA PANDEY
Versus
STATE OF GUJARAT

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Appearance:

MR VICKY B MEHTA(5422) for the Applicant(s) No. 1
MS MOXA THAKKAR, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA**Date : 25/08/2022****ORAL ORDER**

Rule. Learned Additional Public Prosecutor waives service of notice of Rule on behalf of respondent - State.

1. The present successive application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with FIR being I-C.R.No.11201001200007 of 2020 registered with CID Crime Gandhinagar Zone Police Station, Gandhinagar for offence under Sections 406, 420, 114, 467, 471, 120-B of the Indian Penal Code and Sections 66(C), 66(D) of the Information Technology Act and Sections 14, 14(A)(b) of the Foreigners Act.

2. Learned Advocate appearing on behalf of the applicant submits that considering the nature of the offence, the applicant may be enlarged on regular bail by imposing suitable conditions.

3. Learned APP appearing on behalf of the respondent-

State has opposed grant of regular bail looking to the nature and gravity of the offence.

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

5. Having heard the learned advocates for the parties and perusing the material placed on record and taking into consideration the facts of the case, nature of allegations, gravity of offences, role attributed to the accused, without discussing the evidence in detail, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.

6. This Court has considered following aspects,

- (a) The applicant is in jail since 17.3.2022.
- (b) The investigation is over and the charge-sheet is filed.
- (c) The applicant is a lady accused and now, since the charge-sheet has been filed, no further recovery and/or discovery is required to be made from the present applicant and thereby, no further custodial interrogation is required.
- (d) Considering the version of FIR as well as the charge-sheet papers, the role emerging as that of the present applicant is that in the aid of main accused, namely, Igvosba Promish, the present applicant once called the complainant introducing herself as Customs Officer and thereby, she further asked the complainant to deposit a

sum of Rs.3,87,500/- in the account one Shardaben so as to help the main accused - Igvosba Promish. Thereafter, the applicant withdrew the said amount and handed over the said amount to the main accused - Igvosba Promish and in lieu thereof, she received an amount of Rs.50,000/-.

- (e) Learned APP could not able to point out anything further from the charge-sheet papers except the transaction of Rs.3,87,500/-, though the entire fraud was committed upon the complainant about Rs.65 lakhs.
- (f) Considering the limited role of the present applicant and more particularly keeping in mind that the applicant is a lady having infant child of 2 months and at present, she is on temporary bail and the period of temporary bail is going to be over today, normally this Court would not entertain the regular bail while the applicant is on temporary bail and not within the custody, however, considering the peculiar fact that the applicant, who is a lady, is carrying two months infant child with her, it would be too harsh for the child and the mother in such situation to surrender with the jail authority concerned when this Court is inclined to grant bail. In that eventuality, the applicant shall timely surrender to the concerned jail authority along with the order of this Court granting regular bail. Any such surrender is made with the order of this Court, the jail authority concerned shall immediately release the applicant on bail keeping in mind that she has infant baby of two months.

In the facts and circumstances of the present case and considering the role attributed to the applicant and the allegations levelled against her as well as the present applicant being lady accused, aged about 70 years, who is behind the bars since about 2 months by now, I am inclined to consider the case of the applicant.

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

8. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with FIR being **I-C.R.No.11201001200007 of 2020 registered with CID Crime Gandhinagar Zone Police Station, Gandhinagar** on executing a personal 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 she shall;

- [a] not take undue advantage of liberty or misuse liberty;
- [b] not act in a manner injurious to the interest of the prosecution;
- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave the India without prior permission of the concerned trial court;
- [e] mark presence before the concerned Police Station

between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;

[f] furnish the present address of 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 the concerned trial court;

9. The authorities shall adhere to its own Circular relating to COVID-19 and, thereafter, will release the applicant only if she 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.

10. At the trial, the Trial Court shall not be influenced by the prima facie observations made by this Court in the present order.

11. Rule is made absolute to the aforesaid extent. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.

(NIRAL R. MEHTA,J)

V.J. SATWARA