

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL NO. 1166 of 2022

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RAFIK ADAM SUMRA
Versus
STATE OF GUJARAT

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Appearance:

MR SS SAIYED(3690) for the Appellant(s) No. 1
KSHITIJ M AMIN(7572) for the Opponent(s)/Respondent(s)
No. 2
NOTICE SERVED BY DS for the Opponent(s)/Respondent(s) No.
3
MR HK PATEL, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and

HONOURABLE MR. JUSTICE SANDEEP N. BHATT

Date : 01/07/2022

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

1. Rule. Mr. H. K. Patel, learned Additional Public Prosecutor waives service of notice of Rule for the respondent nos. 1 and 3 and Mr. Kshitij Amin, learned Central Government Standing Counsel waives service of notice of Rule for the respondent no.2.

2. The appellant - original accused has filed this appeal under Section 21(1) of the National Investigation Agency Act, 2008 seeking temporary bail on the premise that his presence is required for attending the Nikaah of his daughter, which is fixed on 17.07.2022.

3. Heard Mr. S. S. Saiyed, learned advocate for the appellant, Mr. Kshitij M. Amin, learned Central Government Standing Counsel for the respondent No.2 and Mr. H. K. Patel, learned Additional Public Prosecutor for respondent Nos. 1 and 3.

4. Learned advocate for the appellant submitted that the appellant is arrested in connection with the FIR No.RC-26/2020/NIA/DLI registered with National Investigation Agency, Hqrs., New Delhi, for the offence punishable under Sections 8(c), 21(c), 24, 25, 27(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act) and Sections 17 and 18 of the Unlawful Activities Act.

5. Learned advocate further submits that earlier the daughter of the appellant had preferred Criminal Appeal No.1941 of 2021 seeking temporary bail of the appellant for a period of 30 days on the ground of engagement ceremony of the daughter of the appellant. However, this Court disposed of the said appeal vide order dated 14.12.2021 granting liberty to the appellant herein to approach directly before this Court when the date of Nikaah of the daughter of the appellant is fixed. Copy of the said order is placed on record at page 7. It is submitted that pursuant to the liberty granted by this Court, appellant has directly filed appeal before this Court.

6. It is submitted that now the Nikaah of the daughter of the appellant is fixed on 17.07.2022. Copy of the invitation card is placed on record. Learned advocate, therefore, urged that appellant be released on temporary bail for a period of 7 days.

7. On the other hand, Mr. Kshitij Amin, learned

counsel for respondent No.2 as well as Mr. H. K. Patel, learned APP for respondent Nos. 1 and 3 have opposed this appeal. It is submitted that serious allegations are levelled against the appellant in the compliant filed against him. It is further submitted that the concerned respondent authority has verified the genuineness of the invitation card produced on record and the cause shown in this appeal seems to be genuine. However, learned advocates appearing for the respondents jointly submitted that if this Court is inclined to consider the case of the appellant, he may be released on temporary bail with police escort at the cost of the appellant.

8. We have consider the submissions canvassed by learned advocates appearing for the parties. We have also perused the material placed on record. It is pertinent to note that when the present appellant filed Criminal Appeal No. 1941 of 2021 seeking temporary bail on the ground of engagement ceremony of the daughter of the appellant which was scheduled on 24th December, 2021, this Court, while disposing of the said appeal, observed in para 9 as under:

"9. We are of the view that the party-in-person may not press this application at this stage and await for a date that may be fixed for Nikaah. It would be appropriate to order release of the accused on temporary bail with police escort once a particular date for performance of Nikaah is fixed. We leave it open to the applicant to once-again come before this Court directly praying for temporary bail once the date for Nikaah is fixed. We make it clear that at that point of

time, the accused need not to go before the NIA Court and pray for temporary bail."

9. From the invitation card produced by the appellant in the present proceedings, it is revealed that the Nikaah of the daughter of the appellant is scheduled on 17.07.2022. Learned advocate for the appellant, after taking instructions, submitted that appellant is ready and willing to bear the cost of police escort and therefore the appellant be released on temporary bail for a period of three days starting from 16.07.2022 to 18.07.2022.

10. In view of the aforesaid statement made by learned advocate for the appellant and looking to the overall facts and circumstances of the present case, we are inclined to consider the case of the appellant. Accordingly, the present appeal stands partly allowed. The appellant is ordered to be released on temporary bail during the period **from 16.07.2022 to 18.07.2022 with police escort at the cost of the appellant**, on executing personal bond of Rs.5,000/- (Rupees Five Thousand) before the Jail authority and on usual terms and conditions, as may be imposed by the Jail Authority. The appellant shall surrender before the Jail Authority on completion of temporary bail, without fail. Rule is made absolute to the aforesaid extent.

(VIPUL M. PANCHOLI, J)

(SANDEEP N. BHATT, J)

LAVKUMAR J JANI