

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC.APPLICATION NO. 8066 of 2022**

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VIVEKKUMAR KAMALNIRANJAN KUSHWAHA  
Versus  
STATE OF GUJARAT

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Appearance:

MR ND NANAITY, SENIOR COUNSEL with MR JAIVIK BHATT for M/S.  
NANAITY ADVOCATES(1373) for the Applicant(s) No. 1  
MR PRANAV TRIVEDI, ADDITIONAL PUBLIC PROSECUTOR for the  
Respondent(s) No. 1

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**CORAM: HONOURABLE MS. JUSTICE GITA GOPI**

**Date : 05/05/2022**

**ORAL ORDER**

1. This application has been filed under Section 439 of the Code of Criminal Procedure for regular bail in connection with the First Information Report being Part A C.R. No.11198035220286 of 2022 registered with Mahuva Police Station, District Bhavnagar, for the offences punishable under Sections 306, 498A and 506(2) of the Indian Penal Code and under Sections 3 and 4 of the Prohibition of Dowry Act.
2. Learned Senior Counsel for the applicant submitted that that the deceased was suffering from mental illness and was under continuous depression and the said fact was informed by the applicant to Mr. Sanjay R. Vanja and the chargesheet papers includes the statement recorded in

connection with the Accidental Death complaint. Further, certain documents are produced to substantiate the fact that even prior to marriage, the deceased was undergoing treatment and was diagnosed for depression. The deceased had complained about low mood and lack of sleep even after marriage. The present applicant had supported her in continuation of the treatment which was received from Dr. I.J. Ratnani and the Doctor had found some partial improvement who had prescribed some medication. It is also submitted by learned Senior Counsel that prior to the marriage, the deceased was taking treatment from Dr. Vinay Kumar, a Consultant Psychiatrist from Patna. It is further submitted that parents of the deceased were having knowledge of the mental state of the deceased and there was no reason for abettment from the side of the applicant and as a husband, the applicant was supporting his wife in the medical treatment. It is submitted that the ultimate step was taken in a state of depression. It was, therefore, prayed that the present application may be allowed and the applicant herein may be released on regular bail.

3. Learned Additional Public Prosecutor submitted that marriage span is only of seven months. As per the complaint, it is submitted that there was a demand of dowry by the applicant and the deceased was tortured for

not bringing sufficient dowry. It is further submitted that as per the complaint, the applicant had demanded Rs.10,00,000/- and had also alleged that not a single rupee was provided by the deceased's parents. It was, therefore, prayed that no discretion may be exercised in favour of the applicant.

4. Heard learned Advocates on both the sides and perused the material on record. The documents of medical treatment prior to the marriage are produced before this Court. The statement of Bank account of the deceased has been given for perusal of the Court which reflects that the father of the deceased had transferred an amount of Rs.1,00,000/- into the Bank account of the deceased and as per the statement, the same is transferred in the Term Deposit with a maturity date of 08.02.2023. Considering the mental state of the deceased and that the trial will take its own time to conclude, this Court finds this to be a fit case where discretion could be exercised in favour of the applicant.

5. Hence, the present application is allowed. The applicant is ordered to be released on regular bail in connection with the First Information Report being Part A C.R. No.11198035220286 of 2022 registered with Mahuva Police Station, District Bhavnagar, on executing a

personal bond of **Rs.15,000/- (Rupees Fifteen 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 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 India without prior permission of the concerned trial court;

[e] 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;

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

7. 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.

CAROLINE

Sd/-  
(GITA GOPI, J)

