

R/Criminal Misc. Application No. 10848 of 2018

Varsha Madhukar Wagh v. State of Gujarat

2019 SCC OnLine Guj 127

In the High Court of Gujarat at Ahmedabad

(BEFORE VIPUL M. PANCHOLI, J.)

Dr. Varsha Madhukar Wagh

v.

State of Gujarat

R/Criminal Misc. Application No. 10848 of 2018

Decided on January 22, 2019

Advocates who appeared in this case :

Mr. Deep D. Vyas(3869) for the petitioner(s) No. 1

Mr. K.P. Raval, APP for the Respondent(s) No. 1

The Order of the Court was delivered by

VIPUL M. PANCHOLI, J.:— By way of the present application under Section 438 of the Code of Criminal Procedure, 1973, the applicant accused has prayed to release her on anticipatory bail in case of her arrest in connection with the FIR registered at C.R.No. I-5 of 2018 with DCB Police Station, Surat City for the offenses punishable under Sections 419, 420, 423, 465, 467, 468, 470, 471, 474, 477A, 120B of the Indian Penal Code.

2. Learned advocate for the applicant submits that the nature of allegations are such for which custodial interrogation at this stage is not necessary. Besides, the applicant is available during the course of investigation and will not flee from justice. In view of the above, the applicant may be granted anticipatory bail.

3. Learned advocate for the applicant on instructions states that the applicant is ready and willing to abide by all the conditions including imposition of conditions with regard to powers of Investigating Agency to file an application before the competent Court for his remand. He would further submit that upon filing of such application by the Investigating Agency, the right of applicant accused to oppose such application on merits may be kept open.

4. Learned Additional Public Prosecutor appearing on behalf of the respondent-State has opposed grant of anticipatory bail looking to the nature and gravity of the offence.

5. Having heard the learned advocate for the parties and perusing the investigating papers and as well as considering of the case 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, at this stage, I am inclined to grant anticipatory bail to the applicant.

6. Moreover, this Court has also considered the following aspects:

Applicant is lady accused; she is Doctor; having two minor children; she has cooperated with the investigating officer and her statement is recorded by the investigating agency on 11.06.2018 and 14.06.2018; no further material is required to be collected from the applicant; custodial interrogation of the applicant is not required in the facts and circumstances of the case.

7. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of *Siddharam Satlingappa Mhetre v. State of Maharashtra* as

reported at [2011] 1 SCC 694, wherein the Hon'ble Apex Court reiterated the law laid down by the Constitution Bench in the case of *Shri Gurubaksh Singh Sibbia*, as reported at (1980) 2 SCC 665.

8. In the result, the present application is allowed by directing that in the event of applicant herein being arrested pursuant to FIR registered at C.R.No. I-5 of 2018 with DCB Police Station, Surat City, the applicant shall be released on bail on furnishing a personal bond of Rs. 10,000/- (Rupees Ten Thousand Only) with one surety of like amount on the following conditions that she:

- (a) shall cooperate with the investigation and make herself available for interrogation whenever required;
- (b) shall remain present at concerned Police Station on 29.01.2019 between 11.00 a.m. and 2.00 p.m.;
- (c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- (d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- (e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change her residence till the final disposal of the case till further orders;
- (f) shall not leave India without the permission of the Court and if having passport shall deposit the same before the Trial Court within a week; and
- (g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide it on merits;

9. Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if, ultimately, granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order.

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

11. Rule is made absolute to the aforesaid extent. Direct service is permitted.

Disclaimer: While every effort is made to avoid any mistake or omission, this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification is being circulated on the condition and understanding that the publisher would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this casenote/ headnote/ judgment/ act/ rule/ regulation/ circular/ notification. All disputes will be subject exclusively to jurisdiction of courts, tribunals and forums at Lucknow only. The authenticity of this text must be verified from the original source.