

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 20532 of 2022****With****R/CRIMINAL MISC.APPLICATION NO. 20673 of 2022**

=====

IMRAN @ CHHOTU KADVA ISTYAK AHEMAD SIDDIKI

Versus

STATE OF GUJARAT

=====

Appearance:

MR AMIT D SHAH(11232) for the Applicant(s) No. 1

MS KHUSHBU R SHAH(11864) for the Applicant(s) No. 1

for the Respondent(s) No. 2

MR JK SHAH, APP for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE SAMIR J. DAVE**Date : 15/11/2022****ORAL ORDER**

1. By way of present applications, the applicant-accused has prayed to release him on temporary bail for a period of 30 days on the ground of his own marriage with Jayshriben-daughter of Haribhai Mithabhai Bhalia, resident of Flat No.102, Kailasnagar, Manishnagar Vegetable-market, above Krishna Bakery, Dabholi, Surat on 17/11/2018.

2. A wedding card is also annexed by the present applicant with the present applications.

3. In Criminal Misc. Application No.20532 of 2022, on 10/11/2022, this Court has passed following order:-

“Learned APP to verify above the facts of the case.

Stand over to 15/11/2022.”

4. In Criminal Misc. Application No.20673 of 2022, on 11/11/2022, this Court has passed following order:

“To be heard with Criminal Misc. Application No.20532 of 2022.

Stand over to 15/11/2022.”

5. Today, qua present accused, report is submitted by the Police Inspector, Limbayat Police Station, Surat in Criminal Misc. Application No.20532 of 2022. The same is taken on record.

5.1. In the report of the Police Inspector, Limbayat Police Station, from the statements of witnesses namely Chetanbhai Nanjibhai Rajput, who is neighbour of Jayshreeben, it is submitted that there is no marriage of Jayshreeben on 17/11/2022 and her name is Jayshree @ Payal. Further, said house is in the name of her father and there is no electricity in the house as well as the same is closed since last two years. Said Jayshreeben has driven out her parents and her parents are residing at Mahuva. Mental health of father of Jayshreeben is not good. Since last six months police from different Police Stations from South Gujarat are coming for investigation/inquiry with regard to marriage of Jayshreeben with different Muslim boys but the fact is that there was no such marriage happened and said Jayshreeben is not residing there. Upon inquiry, other witnesses being Ashvinbhai Dhanjibhai Rabadia and Vijaybhai Dhanjibhai Rabadia also revealed the same fact as stated aforesaid.

6. Therefore, on aforesaid report and statements, it appears that Jayshreeben is not residing at the address given by her and that house is closed. She has also driven out her parents from the house. For getting true information, investigation/inquiry with regard to marriage of Jayshreeben with the present accused reveals the true position. It is required to be considered that said Jayshreeben also seems to be involved in the same kind of activities with other women by giving false information to the Court.

7. Further, as per report, present accused seems to be involved in so many offences and against him, so many FIRs are registered. They are as under:

“1. FIR No.15 of 2019 for the offence punishable under Section 364(A), 387, 323, 120(B) and 114 of the IPC at DCB Police Station.

2. FIR No.14 of 2019 for the offence punishable under Section 364(A), 387, 323, 120(B) and 114 of the IPC at DCB Police Station.

3. FIR No.141 of 2019 for the offence punishable under Section 365, 323, 504, 506(2) and 120(B) of the IPC as well as Section 135 of the GP Act at Umra Police Station.

4. FIR No.282 of 2017 for the offence punishable under Section 457, 380 and 114 of the IPC at Limbayat Police Station.

5. FIR No.-II-100 of 2017 for the offence punishable under Section 120(B) and 114 of the IPC and Section 25(1) of the Arms Act at DCB Police Station.

6. FIR No.296 of 2017 for the offence punishable

under Section 392 and 114 of the IPC at Limbayat Police Station.

7. FIR No.138 of 2016 for the offence punishable under Section 326, 324, 325, 323, 506(2), 114, 143, 147, and 148 of the IPC at Limbayat Police Station.”

8. As aforesaid, looking to the report and statements recorded by the police authority, it appears that Jayshriben is not residing at the address given by her since last two years and other facts are also mentioned by the Police Inspector, Limbayat, Surat.

9. Having heard learned APP and perused the application submitted by the applicant and papers available on record, this Court do not find any reason to entertain these applications.

10. For imposing cost, this Court has relied upon decision of **Salem Advocate Bar Association, T. N. Vs. Union of India, reported in (2005) 6 SCC 344** wherein larger Bench of Hon'ble Apex Court has held as under:

“The costs have to be actual reasonable costs including the cost of the time spent by the successful party, the transportation and lodging, if any, or any other incidental cost besides the payment of the court fee, lawyer's fee, typing and other cost in relation to the litigation.”

9. Costs: ...if any of the parties has unreasonably protracted the proceedings, the Judge should consider exercising discretion to impose exemplary costs

10.1. Moreover, with regard to cost, this Court has also relied

upon another decision in case of **Dashrathlal M. Patel, Heirs and Legal Representatives of Maganbhai Joitaram and Ors. v. State of Gujarat and Ors. reported in 2013 (1) GLR 418** wherein Division Bench of this Court has held that;

“10.1 Coming to the next question regarding costs, we find that learned Single Judge has rightly arrived at the conclusion that there is abuse of process of law by both the sets of petitioners before him i.e. by both the sets of appellants in these appeals. Learned Single Judge has also recorded that not only the petitions are required to be dismissed with costs but are required to be dismissed with exemplary costs. Learned Single Judge, in his discretion, quantified that exemplary costs to be Rs. 15000/- and Rs.10,000/-. Learned counsel for the respondents in these appeals have addressed this court, also contending that, once learned Single Judge was convinced that the petitions are required to be dismissed with exemplary costs, in the facts and circumstances of the case, Rs. 15000/- and Rs.10,000/- can not be said to be exemplary cost, and more cost should have been imposed.”

11. Present applications stand rejected and disposed of accordingly with a cost of Rs.1,00,000/-, (Rupees one lakh only) to be deposited before the concerned District Legal Services Authority within a period of four weeks from the date of receipt of this order.

12. The Deputy Superintendent of Police, Surat is directed to look into the matters and take appropriate actions against the erring persons.

(SAMIR J. DAVE,J)

ILA