
(1996) 01 GUJ CK 0012

Gujarat High Court

Case No: None

Naga Raja

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision: Jan. 22, 1996

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 389

Citation: (1996) 2 GLR 750

Hon'ble Judges: M.H. Kadri, J; K.J. Vaidya, J

Bench: Division Bench

Judgement

K.J. Vaidya, J.

Rule. Mr. J.A. Shelat, learned A.P.P. waives service of Rule. Heard the learned Advocates appearing for the respective parties.

2. Naga Raja and Vikram Raja by this Misc. Criminal Application u/s 389 of the Code of Criminal Procedure, 1973, have moved this Court inter alia praying for releasing them on temporary bail for 20 days on the ground of marriage of Savdhiben (daughter of Nagaraja).

3. In support of this application, the petitioners have annexed marriage invitation card, wherein it is stated that the marriage is to take place on Saturday, 27th January, 1996 at Jetpur.

4. Now, so far as the question of temporary bail is concerned, this Court (Coram: K.J. Vaidya & M.H. Kadri, JJ.) in Misc. Criminal Application No. 318 of 1996 in Criminal Appeal No. 424 of 1992, decided on 19-1-1996, has already taken a view that ordinarily unless some genuine indispensable ground is made out and that too further if there is no serious antecedents or any other adverse jail record against the convict-prisoner, temporary bail should not be granted. This we have held mainly on the ground of imperative necessity to maintain and preserve the sanctity of the punishment and the

ultimate sentencing process and overall jail discipline. Accordingly, applying the said test to the facts and circumstances of the instant case, Naga Raja when he prays to get himself released on temporary bail to get his daughter married, he is certainly not asking the same for the purpose of mere enjoyment of the marriage. In our opinion traditionally speaking "Kanyadan" (this word not approved by many these days and rightly so) that is to say giving of daughter by parents in marriage is indisputably considered to be an important religious and sacred social obligation to be discharged.

5. Accordingly, this ground invariably falls within one of the deserved category of indispensable ground" entitling Naga Raja to be released on the temporary bail !! While reaching the conclusion that the aforesaid ground prayed for the temporary bail is quite indispensable, before passing the order of temporary bail, we have also specifically inquired from the learned A.P.P. if there were any criminal antecedents or any other things against Naga Raja from where it could be reasonably inferred that he was likely repeat the same or similar offence/s, creating the problem of law and order - to which we are assured by the learned A.P.P. that there appears to be indeed none. In fact, the learned A.P.P. was further fair enough to point out that during the past two years in jail, the jail record does not indicate anything hostile against him. So far as Vikram Raja is concerned, his case does not stand in parity with the case of Naga Raja, and accordingly, in that view of the matter, his prayer for the temporary bail requires to be rejected and is rejected accordingly.

6. In the result, this application is partly allowed. Naga Raja is ordered to be released on temporary bail in the sum of Rs. 5,000/- and a surety of the like amount only for seven days. During the period he is so released, he shall report at Jetpur Police Station every alternative day between 8-00 a.m. and 6-00 p.m. So far as Vikram Raja is concerned, his prayer for temporary release is refused. Rule made absolute to the aforesaid extent.