



2025 INSC 246

(REPORTABLE)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. OF 2025
(Arising out of SLP(Criminal) No. 12437/2024)

HITESH UMESHBHAI MASHRU

Appellant(s)

VERSUS

THE STATE OF GUJARAT & ANR.

Respondent(s)

J U D G M E N T

1. Leave granted.
2. The present appeal arises out of the impugned judgment and order dated 23.08.2024, passed by the High Court of Gujarat at Ahmedabad in R/ Criminal Misc. Application (for successive anticipatory bail) No. 16462 of 2024, whereby the High Court had rejected the said application, filed by the present appellant, seeking anticipatory bail in connection with the F.I.R. No. 11203024220505 dated 16.07.2022, registered at Police Station-B-Division, District-Junagadh, for the offence punishable under Sections-493 and 376(2) (n) of the Indian Penal Code (for short 'IPC').

3. Heard learned counsel appearing for the parties and perused the material on record.

4. It is sought to be submitted by the learned counsel, Mr. Virat Popat, appearing for the appellant, that the appellant had married the prosecutrix (respondent no.2) at the age of 47 years, and it was the third marriage of both the parties i.e. the appellant and the prosecutrix. He further submitted that the appellant has joined the investigation after he was granted protection against his arrest by this Court vide the order dated 01.10.2024.

5. Learned counsel appearing for the respondent-State, relying upon the additional affidavit filed by the Investigating officer, submitted that the investigation is over, and as per his instructions, the charge-sheet has already been filed in the case.

6. Learned counsel, Ms. Aastha Mehta, appearing for respondent no.2 (prosecutrix), however, has objected to the granting of the anticipatory bail to the appellant by submitting that the appellant had cheated the respondent no.2 (prosecutrix) under the pretext of marriage. She further submitted that their

marriage was also not registered, however they had married as per their customs.

7. Having regard to the submissions made by the learned counsels appearing for the parties and to the fact that now the charge-sheet has already been filed but, without expressing any opinion on the merits of the case, we are inclined to accept the present appeal.

8. Hence, it is directed that in the event of the arrest of the appellant, in connection with the F.I.R. No. 11203024220505 dated 16.07.2022, registered at Police Station-B-Division, District-Junagadh, he shall be released on bail, if not required in any other case, on such terms and conditions that may be imposed by the Trial Court. He shall continue to co-operate with the investigation.

9. It goes without saying that the respondent-State shall be at liberty to file appropriate application seeking cancellation of bail in case any of the conditions, that may be imposed by the Trial Court, are violated or breached by the appellant.

10. Accordingly, the appeal is allowed.

11. Pending application(s), if any, shall stand closed.

.....J.
(BELA M. TRIVEDI)

.....J.
(PRASANNA B. VARALE)

New Delhi
18.02.2025

ITEM NO.4

COURT NO.9

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 12437/2024

[Arising out of impugned final judgment and order dated 23-08-2024 in CRMA No. 16462/2024 passed by the High Court of Gujarat at Ahmedabad]

HITESH UMESHBHAI MASHRU

Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ANR.

Respondent(s)

IA No. 205502/2024 - EXEMPTION FROM FILING O.T.

IA No. 212551/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 207412/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

Date : 18-02-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE BELA M. TRIVEDI

HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) :

Mr. Virat Popat, Adv. (through VC)
Mr. Lokesh Kumar Choudhary, AOR

For Respondent(s) :

Mr. Prashant Bhagwati, Adv.
Ms. Swati Ghildiyal, AOR

Ms. Aastha Mehta, Adv.
Mr. Anshuman Srivastava, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is allowed in terms of the signed judgment.
3. Pending application(s), if any, shall stand closed.

(NISHA KHULBEY)

SENIOR PERSONAL ASSISTANT

(signed reportable judgment is placed on the file)

(MAMTA RAWAT)

COURT MASTER (NSH)