

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 781 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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PARSHOTTAMBHAI BECHARBHAI SOLANKI

Versus

STATE OF GUJARAT

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Appearance:

THROUGH JAIL for Petitioner

MR MUKESH A PATEL for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/09/1999

ORAL JUDGEMENT

#. Rule. Mr.Mukesh A. Patel, APP waives service of Rule on behalf of the respondents.

#. By this petition, the petitioner, a prisoner in Central Jail, Baroda praying for direction for his transfer from Central Jail, Baroda to Central Jail, Ahmedabad. This prayer made by the petitioner was not

accepted by the respondents. In reply to this Special Criminal Application it is given out by the respondents that who are to be kept in Central Jail at Ahmedabad and the petitioner's case does not fall in that criteria and as a result thereof his prayer for transfer from Central Jail, Baroda to Central Jail, Ahmedabad rightly been rejected by the respondents. I do not find any substance in this contention. It is true guidelines are framed for keeping a prisoner at different Central Jails but it is not the case where a prisoner from one jail to another cannot be transferred in any circumstances. These are the broad guidelines and there may be exceptional cases in which a prisoner may be ordered to be transferred from one jail to another jail on its own facts. If the petitioner is claiming his transfer to Central Jail at Ahmedabad on the ground that his family consists of his mother, younger brother, 2 minor children and wife because of poverty are not in a position to meet with the petitioner at Central Jail, Baroda, the matter has to be considered on its own facts. The petitioner further stated, which is not in dispute that he has not seen his family members for the last 6 years.

#. In the State, if we go by the litigation which is there in this court reveals that the citizens are having sufficient legal literacy. Even from the jails the petitions are coming up before this court which further suggestive of the fact the litigants have sufficient legal literacy. If that is the position in this state it is expected of the officer concerned while rejecting the application of the petitioner to pass a reasoned order. In the case in hand the learned counsel for the respondents does not dispute that in the order of the officer concerned rejecting the prayer of the petitioner for his transfer from Central Jail, Baroda to Central Jail, Ahmedabad no reasons are recorded. Only on this short ground, the impugned order in this Special Criminal Application cannot be allowed to stand.

#. As a result of the aforesaid discussion, this writ petition succeeds in part and the matter is sent back to the officer concerned to consider the application of the petitioner for his transfer from Central Jail, Baroda to Central Jail, Ahmedabad in accordance with law. In case where the prayer of the petitioner for his transfer from one jail to another jail, as prayed for is not accepted, a reasoned order be passed and copy of the same be sent to the petitioner.

This Special Criminal Application and Rule stand disposed of accordingly.

(S.K.Keshote, J.)

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