

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 434 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 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

KARMAN @ KAMO SOMABHAI

Versus

STATE OF GUJARAT

Appearance:

MRS MADHUBEN SHARMA for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 23/05/2000

ORAL JUDGEMENT

1. Rule. Mr.U.A.Trivedi, learned APP waives service of rule.

2. The appeal of the petitioner is pending before the Secretary, Home Department, Gandhinagar. However, while rejecting the stay application, no reasons have been given. While exercising quasi judicial powers, it is expected that, reasons should be given for not granting of interim order. In a series of matters, this court has held that, if the appeal is admitted and if interim order is not granted, reasons are required to be given. No reasons have been given for refusing the interim order. Ms.Sharma relied upon the judgment of the Bombay High Court reported in Cr.L.R.(Mah.)198 on the ground that, during the pendency of appeal, externment order is required to be stayed. Since, no reasons are given, I set aside the impugned order refusing the stay order. The appellate authority may reconsider the question about the stay application afresh after hearing the petitioner and the same should be disposed of by speaking order. It is needless to say that, while deciding the application, the authority will decide the said question strictly in accordance with law without being influenced by any extraneous guidelines which might have been issued in this connection. In any case, if the interim order is refused, the authority may give reasoned order for not granting the interim order. The said application to be reheard by the officer concerned on 26/5/2000 and the order be passed on the same day in accordance with law and should be disposed of forthwith. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(P.B.Majmudar,J.)

(pathan)