

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 944 of 2015****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE MOHINDER PAL sd/-****and****HONOURABLE MR.JUSTICE A.G.URAIZEE sd/-**

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	NO

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ANILBHAI BABUBHAI GAMIT**Versus****STATE OF GUJARAT**

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Appearance:**HCLS COMMITTEE for the PETITIONER(s) No. 1****MS. ALKA B VANIYA(6945) for the PETITIONER(s) No. 1****MR PRANAV TRIVEDI, ADDL. PUBLIC PROSECUTOR for the
RESPONDENT(s) No. 1**

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CORAM: HONOURABLE MR.JUSTICE MOHINDER PAL**and****HONOURABLE MR.JUSTICE A.G.URAIZEE****Date : 07/10/2017****ORAL JUDGMENT****(PER : HONOURABLE MR.JUSTICE A.G.URAIZEE)**

Heard Ms Alka Vania, learned advocate for the appellant and Mr Pranav Trivedi, learned Assistant Government Pleader for the respondent-State.

2 This appeal is directed against the judgment and order of conviction dated 15th September 2014 passed by the learned Additional Sessions Judge, Tapi at Vyara in Sessions Case No.8 of 2014 whereby the appellant is sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.10,000/- in default of which to further undergo simple imprisonment for 30 days for the offence punishable under section 302 of the Indian Penal Code and to further undergo six months of simple imprisonment and to pay a fine of Rs.2,000/- in default of which to further undergo simple imprisonment for 30 days for the offence punishable under section 323 of the Indian Penal Code.

3 The record indicates that the appeal came to be admitted by the Division Bench of this Court on 4th August 2015. The learned Additional Public Prosecutor has submitted that the jail remarks clearly indicate that the appellant was released on 20th June 2016 on furlough leave for a period of 14 days and he was to report before the jail authority on 5th July 2016 after the expiry of furlough leave. However, he has not surrendered before the jail authority and is absconding since then. Accordingly, an offence is registered by the jail authority before Sachin Police Station, Surat.

4 Mr Pranav Trivedi, learned Assistant Government Pleader for the respondent-State states on instructions that the appellant-convict is still absconding.

5 Ms Alka Vania, learned advocate for the appellant-convict states that she is not in contact with the appellant at all.

6 It is thus explicitly clear from the record that the appellant is convicted for the offences punishable under section 302 and 323 of the Indian Penal Code and has absconded while on furlough leave and has thus misused the liberty granted by the jail authority by releasing him on furlough. It also emerges from the jail remarks that the attempts to arrest the appellant have not yielded any results. Therefore, in view of the above, considering the decision of the Full Bench of this Court in the case of ***Niraj Devnarayan Shukla v. State of Gujarat, 2015 (3) GLR 2442***, more particularly para 16 (iii) thereof, this Court is of the opinion that in the facts and circumstances of this case, without entering into the merits of the case, the present appeal is dismissed as this Court is satisfied that though the efforts have been made, the appellant is not traced out from 5th July 2016 and has shown total disrespect to the judicial system. However, it is observed that if, subsequently, the appellant surrenders or is arrested, he may file an application for restoration of the criminal appeal for hearing the same on merits.

7 The Investigating Agency as well as the State are hereby directed to continue all efforts to arrest the appellant-convict.

8 It goes without saying that this Court has not expressed any opinion on merits and the same is dismissed on the ground that the appellant is absconding since more than a year.

9 With the above observations, the present appeal stands dismissed with the aforesaid liberty.

(MOHINDER PAL, J)

(A.G.URAIZEE, J)

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