

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 2540 of 2019**

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CHAUHAN MAHENDRASINH PRAVINSINH

Versus

STATE OF GUJARAT

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Appearance:

MR BHARAT T RAO(697) for the Appellant(s) No. 1,2,3,4,5,6

MR DAXAY D PATEL(6633) for the Opponent(s)/Respondent(s) No. 2

MR JK SHAH, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE VIRESHKUMAR B. MAYANI**Date : 31/12/2019****ORAL ORDER**

1. This matter was ordered to be listed on 31st December, 2019. However, due to some technical problem, the same is not listed in today's board. Mr.B.T.Rao, learned advocate for the applicant requested to take up the matter today and therefore, the present matter is listed in per Court board and the hearing is conducted today.
2. The applicants have filed Criminal Misc. Application No.921 of 2019 before the Court of learned 3rd Additional Sessions Judge, Mehsana, at - Visnagar u/s 439 of the Code of

Criminal Procedure, 1973 requesting to enlarge the applicants on regular bail on account of offence being registered vide I-C.R. No.50 of 2019 with Satlasana Police Station for the offence punishable u/s. 143, 147, 149, 323, 504, 506 (2) of the Indian Penal Code and u/s. 3(1)(R)(S)(E), 3(2)(5-A) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocity) Act, 1989 (for short "the Atrocities Act") and u/s.67 of the I.T. Act, wherein, the learned 3rd Additional Sessions Judge, Mehsana, at - Visnagar rejected the said application on 21.12.2019.

3. Feeling aggrieved by the said order, the applicants preferred present appeal u/s 14A of the Atrocities Act.
4. Heard Mr. B.T.Rao, learned advocate for the applicants, Mr.Daxay Patel, learned advocate for the original complainant and Mr.J.K.Shah, learned APP for the respondent State.
5. Mr.B.T.Rao, learned advocate for the applicant has submitted that the offence is

of a minor nature, the names of the present applicants are not mentioned in the F.I.R. itself, the F.I.R. Contains only 6 (six) names and one another unknown person, but here the police arrested all the applicants, whose names are not mentioned in the F.I.R. itself, but afterward, the police statement has been recorded by the Investigating Officer on 08.12.2019, in which the names of the present applicants are mentioned. The name of the accused Chauhan Kirtisinh Manusinh is not mentioned in the F.I.R. or police statement of complainant. He has also submitted that the name of the present applicants are come in the police statement afterward and on the next day even though the applicants and the complainant are residing in the same village. He has also submitted that any condition that may be imposed will be obeyed by the applicants.

6. Mr.Daxay D. Patel, learned advocate is present before the Court on behalf of the

original complainant and seeks permission to file vakalatnama on behalf of the original complainant - Sanjay Ranchhod Parmar, Res. At - Mota Kothasna, Taluka - Satlasana, District - Mehsana. Father of the original complainant Ranchhodbhai Somabhai Parmar is also present before this Court. The learned advocate for the complainant as well as the original complainant and his father have submitted that they have no objection for granting of the present application and the original complainant - Sanjay Ranchhodbhai Parmar has filed an affidavit in this regard, which is taken on record.

7. Mr.J.K.Shah, learned APP for the respondent State has vehemently opposed the present application and submitted that this is a serious offence and the present application may be rejected.
8. I have considered the facts and circumstances, the F.I.R., the allegations alleged in the F.I.R. as well as the

submissions of the learned advocate for the original complainant as well as the original complainant himself that if the present applicants may be released on bail, then they do not have any objection. Moreover, the names of the present applicants are not mentioned in the F.I.R. and afterward, the names came on the record of the police by way of the police statement, which was recorded on 08th December, 2019.

9. In the result, the present appeal is partly allowed. The impugned order dated 21st December, 2019 passed by the learned 3rd Additional Sessions Judge, Mehsana, at - Visnagar in Criminal Misc.Application No.921 of 2019 is hereby quashed and set-aside and the present applicants are ordered to be released on regular bail on furnishing a bond of Rs.10,000/- each applicant with one surety of like amount to the satisfaction of the trial Court and subject to the conditions that the applicants shall;

- [a] not take undue advantage of liberty or misuse liberty;
- [b] not act in a manner injurious to the interest of the prosecution;
- [c] surrender passport, if any, to the lower court within a week;
- [d] not leave India without prior permission of the concerned Trial Court;
- [e] mark presence before the concerned Police Station between 1st to 10th day of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
- [f] furnish the present address of residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;
- (g) shall not enter limit of Taluka - Satlasana for a period of three months only except for marking presence;

10. The authorities will release the applicants only if they are not required in connection with any other offence for the time being. If breached of any above

conditions is committed, the Sessions Judge concerned will be free to issue warrant or to take appropriate action in the matter. Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open to the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with the law.

11. At the trial, the trial Court shall not be influenced by the prima-facie observations made by this Court in the present order.

Rule is made absolute to the aforesaid extent. Direct service today is permitted.

(VIRESHKUMAR B. MAYANI, J)

MOHMMEDSHAHID