

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 1231 of 2020****With****R/CRIMINAL APPEAL NO. 1300 of 2020****With****R/CRIMINAL APPEAL NO. 1230 of 2020**

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BHARATJI HAMIRJI CHAVDA (THAKORE)**Versus****STATE OF GUJARAT**

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Appearance in Criminal Appeal No.1231/2020:

SAN ASSOCIATES LLP(8655) for the appellants

MR NARANBHAI D ASAL(11055) for the Respondent(s) No. 2

MR PRANAV TRIVEDI, APP(2) for the Respondent(s) No. 1

Appearance in Criminal Appeal No.1300/2020:

MR VIKAS NAIR, ADVOCATE for MR NIMESH M. PATEL for the appellants

MR NARANBHAI D ASAL and MR AMIT JOSHI for the Respondent(s) No. 2

MR PRANAV TRIVEDI, APP(2) for the Respondent(s) No. 1

Appearance in Criminal Appeal No.1230/2020:

MR KIRIT R CHAUDHARI for the appellants

MR NARANBHAI D ASAL and MR AMIT JOSHI for the Respondent(s) No. 2

MR PRANAV TRIVEDI, APP(2) for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE S.H.VORA**Date : 29/01/2021****COMMON ORAL ORDER**

1. By way of the present appeals under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the 'Act, 1989'), the appellants – original accused challenge the order dated 6.11.2020 passed by the learned 8th (Ad hoc) Additional Sessions Judge, Banaskantha at Deodar in Criminal Misc. Application No.286 of 2020, order dated 13.11.2020 passed by

the learned 8th (Ad hoc) Additional Sessions Judge, Banaskantha at Deodar in Criminal Misc. Application No.306 of 2020 and order dated 13.11.2020 passed by the learned 8th (Ad hoc) Additional Sessions Judge, Banaskantha at Deodar in Criminal Misc. Application No.301 of 2020, whereby, the learned Sessions Judge refused to grant regular bail under Section 439 of the Code of Criminal Procedure to the appellants – original accused in connection with the F.I.R. being C.R.No.11195050200962 of 2020 registered with Tharad police station for the offence punishable under Sections 307, 325, 323, 435, 436, 427, 452, 147, 148, 149, 120-B of the IPC, under section 135 of the G.P.Act and under sections 3(2)(v), and 3(2)(va) of the Atrocities Act.

2. Heard learned advocates appearing for the respective parties and perused order passed by the Co-ordinate Bench in Criminal Appeal No.1145 of 2020 in favour of Shri Maganji s/o. Shankarji Parmar (Thakor) and order passed by this Court in Criminal Appeal No.1208 of 2020 in favour of Shri Vikrambhai Lebuji Chavda (Thakor). Upon perusal of FIR, it appears that present appellants, co-accused Shri Maganji s/o. Shankarji Parmar (Thakor) and Shri Vikrambhai Lebuji Chavda (Thakor), who came to be enlarged on bail, have played identical and similar role. Therefore, on the ground of parity, present appeals deserve consideration.

3. In the result, the present appeals are allowed. The impugned order dated 6.11.2020 passed by the learned 8th (Ad hoc) Additional Sessions Judge, Banaskantha at Deodar in Criminal Misc. Application No.286 of 2020, order dated 13.11.2020 passed by the learned 8th (Ad hoc) Additional

Sessions Judge, Banaskantha at Deodar in Criminal Misc. Application No.306 of 2020 and order dated 13.11.2020 passed by the learned 8th (Ad hoc) Additional Sessions Judge, Banaskantha at Deodar in Criminal Misc. Application No.301 of 2020 are hereby quashed and set aside. The appellants are ordered to be released on bail in connection with FIR registered as C.R.No.11195050200962 of 2020 with Tharad police station on executing bond of Rs.10,000/- (Rupees Ten Thousand only) each with one surety of like amount to the satisfaction of the Trial Court and subject to the conditions that the appellants 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] not leave the territory of India without prior permission of the Sessions Judge concerned;
- [d] appear before the Investigation Officer concerned, as and when required for investigation purpose and attend Court concerned regularly.
- [e] furnish the present address of residence along with the proof to the I.O. concerned and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of Sessions Court concerned;

4. The competent authority will release the appellants only if they are not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the Sessions Judge concerned will be free 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 or relax any of the above conditions in accordance with law. At the trial, the trial court shall not be influenced by the observations of preliminary nature, qua the evidence at this stage, made by this Court while enlarging the appellants on bail.

The appeals succeed. Direct service is permitted.

(S.H.VORA, J)

SHEKHAR P. BARVE