

(2020) 03 GUJ CK 0001
In the Gujarat High Court
Case No : R/Criminal Appeal No. 30 Of 2020

Hassanabbas Ismailbhai Bhorniya

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 03-03-2020

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 14A

Citation : (2020) 03 GUJ CK 0001

Hon'ble Judges : B.N. Karia, J

Bench : Single Bench

Advocate : P P Majmudar, Rushabh R Shah

Final Decision : Allowed

Judgement

B.N. Karia, J

The appellants have filed this appeal for quashing and setting aside the order dated 9.10.2019 passed by the learned 14th (Ad-hoc) Additional Sessions

Judge [Special Judge, (Atrocity cases)], Vadodara in Criminal Misc. Application No. 2613 of 2019.

Feeling aggrieved by the said order, the appellants preferred said appeal u/s 14-A of the Atrocity Act.

Heard learned advocates for the respective parties and learned APP for the respondent-State.

Learned advocate for the appellants submits that learned Judge has not properly considered the application preferred by the appellants. That, learned

Judge ought to have appreciated that the appellants are owning the hotel situated at the alleged place of offences which is at present being sealed and

for the purpose of running the same, the appellants have to visit the Mamlatdar

Office, Dabhoi, therefore, the bail condition being condition No.3 ought to have been modified. That, learned Judge ought to have appreciated that there were around 50 persons, who were dependent on the alleged hotel for earning their livelihood, and they are now unemployed, therefore also, the bail condition being Condition No.3 ought to have been modified. That, the learned Judge ought to have appreciated that the charge-sheet has been filed and therefore, there is no question of hampering or tampering with any evidence or threatening any witnesses, therefore also, the bail condition being condition No.3 is required to be modified.

From the other side, learned APP for the respondent -State as well as learned advocate for the respondent No.2 have opposed the prayer made by

the appellants and argued that considering the serious offence committed by the present appellants, the condition was imposed by the Court below

restraining the appellants from getting entry in the place of incident situated at Fartafui village as well as territory of Dabhoi Taluka without prior

permission of the Court. That, learned Sessions Judge has rightly dismissed the prayer for modification of condition vide order dated 9th October, 2019

passed in Criminal Misc. Application No. 2613 of 2019. That, no precaution was taken by the present appellants and therefore, the incident was

occurred where seven persons were expired. That, no interference is required by this Court by deleting the condition No. 3 as requested by the

present appellants. Hence, learned APP for the State as well as learned advocate for the respondent No.2 have requested to dismiss the present

appeal.

Having considered the facts of the case and submissions made by learned advocates for the respective parties as well as learned APP for the

respondent-State, it appears that the alleged offence committed by the present appellants wherein, the appellants were arrested, they requested to

enlarge on bail by preferring Criminal Misc. Application No. 2286 of 2019 as well as Criminal Misc. Application No. 2398 of 2019 . Both the

applications were allowed vide order dated 4.9.2019 as well as 17.9.2019 by 14th (Ad-hoc) Additional Sessions Judge [Special Judge, (Atrocity

cases)], Vadodara wherein certain conditions were imposed. Condition No.3 therein reads as under :-

â??3. The appellants shall not entered the place of incident situated at Fartafui

village as well as territory of Dabhoi Taluka without prior permission of the concerned Court.â??

The present appellants being, facing difficulty in running their business, preferred Criminal Misc. Application No. 2613 of 2019 before the Sessions

Court, Vadodara and requested to delete condition No.3 and modified the order passed by learned Sessions Judge, Vadodara. After hearing the

parties, learned Sessions Judge was pleased to dismiss the prayer of modifying the condition No.3 imposed by the learned Sessions Judge vide order

dated 9th October, 2019. It appears that the present appellants are running their business at Fartafui village. That, the investigating Agency has filed

charge-sheet after completing the investigation. Hence, there is no possibility of hampering or tampering with any evidence or threatening any

witnesses. Appellants have shown their willingness to deposit Rs.1.00 Lac by way of compensation to each family of the deceased which would come

to Rs. 7.00 Lacs in all, before the trial Court at Vadodara within a period of one week.

Hence, considering the facts of the case, the prayer made by the present appellants requires consideration. Hence, this appeal is allowed . The order

passed by learned 14th (Ad-hoc) Additional Sessions Judge [Special Judge, (Atrocity cases)], Vadodara in Criminal Misc. Application No. 2613 of

2019 dated 9th October, 2019 shall be quashed and set aside . Condition No.3 imposed in Criminal Misc. Application No. 2286 of 2019 and Criminal

Misc. Application No. 2398 of 2019 shall be deleted. The appellants shall deposit an amount of Rs.7.00 Lacs before the trial Court, Vadodara within a

period of one week without prejudice the rights of the appellants.

The amount deposited by the appellants would not construed as an admission of any allegation in any other pending proceedings . It is clarified that if

any order would be passed by any other competent authority to pay any compensation to the victim, the amount deposited by the appellants shall be

adjusted . After due verifications of the legal heirs of the deceased learned trial Court may disburse this amount accordingly. The rights of the

appellants to raise contentions are kept open.

Direct service is permitted.