

(2021) 02 GUJ CK 0060
In the Gujarat High Court

Case No : R/Criminal Appeal No. 164, 191, 1251, 1264, 1314 Of 2021

Mahinbhai Amthabhai Talpada

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 08-02-2021

Acts Referred:

Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 — Section 3(1)(R)(S), 3(2)(5)(A), 14A(2)
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 302, 304(I) 323, 384, 395, 397, 506(2)

Citation : (2021) 02 GUJ CK 0060

Hon'ble Judges : S.H.Vora, J

Bench : Single Bench

Advocate : Raxit J Dholakia, Vicky Mehta, Pranav Trived, Maulin Pandya, Shailesh C Sharma

Final Decision : Allowed

Judgement

S.H.Vora, J

1. By way of 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 challenges the order dated 28.1.2021 passed by the learned 3rd Additional Sessions Judge

and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.79 of 2021, order dated 27.11.2020 passed by the learned 3rd Additional

Sessions Judge and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.1017 of 2020, order dated 27.11.2020 passed by the learned 3rd

Additional Sessions Judge and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.1017 of 2020, order dated 27.11.2020 passed by the

learned 3rd Additional Sessions Judge and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.1017 of 2020 and order dated 21.1.2021

passed by the learned 3rd Additional Sessions Judge and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.67 of 2021, whereby, the

learned Sessions Judge refused to grant regular bail under Section 439 of the Code of Criminal Procedure to the appellants â?" original accused in

connection with the F.I.R. being C.R.No.I-11204046201949 of 2020 registered with Nadiad Town police station for the offence punishable under

Sections 395, 397, 384, 323, 506(2), 34 of the IPC and u/s 3(1) (R)(S) and 3(2) (5)(A) of the Atrocity Act.

2. Heard learned advocate appearing for the respective appellants and learned advocate Mr. Mehta for the private respondent so also learned APP

Mr. Pranav Trivedi. It appears that charge sheet is filed and against some of the accused persons, antecedents are registered, but in all cases, they

have earned acquittal except one Mr. Mahinbhai (appellant of Criminal Appeal No.191/2021), who has been charged with section 302 of the IPC, but

was subsequently convicted for section 304 (Part I) of the IPC for 10 years and he has already undergone 10 years of sentence. Even no

recovery/discovery is effected from him. It further appears that no recovery/discovery is effected from co-accused Mr. Ishwarbhai Talpada and Mr.

Shyamkumar Sindani. Now, charge sheet is filed and considering overall facts and circumstances of the case, present appeals deserve consideration.

3. In the result, the present appeals are allowed. The Impugned order dated 28.1.2021 passed by the learned 3rd Additional Sessions Judge and

Special Atrocity Judge, Nadiad in Criminal Misc. Application No.79 of 2021, order dated 27.11.2020 passed by the learned 3rd Additional Sessions

Judge and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.1017 of 2020, order dated 27.11.2020 passed by the learned 3rd Additional

Sessions Judge and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.1017 of 2020, order dated 27.11.2020 passed by the learned 3rd

Additional Sessions Judge and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.1017 of 2020 and order dated 21.1.2021 passed by the

learned 3rd Additional Sessions Judge and Special Atrocity Judge, Nadiad in Criminal Misc. Application No.67 of 2021 are hereby quashed and set

aside. The appellants is ordered to be released on bail in connection with FIR registered as C.R.No.I-11204046201949 of 2020 with Nadiad Town

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;

[f] not to enter the limits of village Nehru Gam, Tal: Nadiad, Dist: Kheda for six months.

4 The competent authority will release the appellants only if he is 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.