

(2021) 03 GUJ CK 0107
In the Gujarat High Court

Case No : R/Criminal Appeal No. 1108 Of 2020, 316 Of 2021

Pradipbhai Bharatbhai Tailor

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 26-03-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(5), 3(2)(5a), 14A(2)
Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 143, 147, 148, 149, 302, 307
Gujarat Police Act, 1951 — Section 135(1)
Code Of Criminal Procedure, 1973 — Section 151

Citation : (2021) 03 GUJ CK 0107

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

Bench : Single Bench

Advocate : Hardik A Dave, Shakeel A Qureshi, Pranav Trivedi, Anirudh N Suchak

Final Decision : Allowed

Judgement

S.H.Vora, J

ORDER IN R/CRIMINAL APPEAL NO. 1108 of 2020

Learned Advocate for the appellant seeks permission to withdraw the present appeal; however makes a request to grant liberty to prefer a fresh bail application after some time. Permission, as prayed for, is granted with a liberty to move a fresh bail application after recording of deposition of important and relevant by the trial Court. It is clarified that this Court has not examined the merits of the matter and if such an application is preferred, the same shall be decided on its own merits and without being influenced by the present withdrawal.

ORDER IN R/CRIMINAL APPEAL NO. 316 of 2021

By way of the present appeal under Section 14-A(2) of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the 'Act, 1989')., the appellant - original accused challenges the order dated 06/02/2021 passed by the learned 10th Additional Sessions Judge, Surat in Criminal Misc. Application No.597 of 2021 whereby, the learned Sessions Judge refused to grant regular bail under Section 439 of the Code of Criminal Procedure to the appellant - original accused in connection with the F.I.R. being C.R.No.I-11210005201230 of 2020 registered with Athwalines Police Station for the offence punishable under Sections 302, 307, 143, 147, 148, 149 of the Indian Penal Code and under Sections 135(1) of the GP Act and under sections 3(2)(5) and 3(2)(5-a) of the Atrocities Act.

2. Brief facts of the case are that the complainant has lodged the First Information Report vide impugned FIR inter-alia alleging that incident occurred on 19/04/2020 and FIR came to be lodged on 20/04/2020 that before one and half month of the incident as earlier accused persons and the complainant side had some dispute and proceedings under Section 151 of Cr.PC were initiated. It is alleged that on 19/04/2020 he received the information telephonically from his brother and therefore the earlier incident the matter is settled and compromise took place, but the telephone call came at 8:00 p.m. Thereafter, at 10:30 p.m. the complainant received the information that one Sandip and Hiral has been severely beaten by someone and he has admitted in Surat Municipal Institute of Medical Education and Research, Surat Hospital where he has declared dead.

3. Heard learned Advocates appearing for the respective parties. Considering the police papers supplied during the course of hearing, it appears that the present appellant has not taken any part in beating the deceased; but he injured to one Mr.Hiren Babriya. Except this, no other role is attributed to the present appellant and no past antecedents are registered against the appellant and therefore, present appeal deserves consideration.

4. In the result, the present appeal is allowed. The order dated 06/02/2021 passed by the learned 10th Additional Sessions Judge, Surat in Criminal Misc. Application No.597 of 2021 is hereby quashed and set aside. The appellant is ordered to be released on bail in connection with F.I.R. being C.R.No.I-11210005201230 of 2020 registered with Athwalines Police Station on executing bond of Rs.10,000/- (Rupees Ten Thousand only) with one surety of like amount to the satisfaction of the Trial Court and subject to the conditions that the appellant 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;

[5] The competent authority will release the appellant 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 appellant on bail.

The appeal succeeds. Direct service is permitted.