

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 5355 of 2024**

=====

BHAVESH PRABHULAL SHETH & ORS.

Versus

STATE OF GUJARAT & ANR.

=====

Appearance:

MS POONAM M MAHETA(11265) for the Applicant(s) No. 1,2,3,4
for the Respondent(s) No. 2

MS DIVYANGANA JHALA, APP for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 30/04/2024****ORAL ORDER**

1. By way of this application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant has prayed to quash and set aside the complaint being C.R. No.11210008212056 of 2021 registered with Sarthana Police Station, Surat for the offence punishable under Sections 285 & 114 of the IPC and Sections 3, 7 and 11 of the Essential Commodities Act and Sections 9(B)(1)(b) of the Explosive Act and all the consequential proceedings arising therefrom.

2. It appears that investigation is over and charge-sheet is filed, which is culminated into Criminal Case No.18904 of 2022 pending before the learned Additional Senior Civil Judge and Additional Chief Judicial Magistrate, Surat.

3. Heard learned advocate for the respective parties.

4. It is submitted that petitioner is engaged in the trading business of chemical product namely 'Arihant Enterprises' and he has sold the alleged Industrial Oil Unit to one Siddhanth & Company.

5. Considering the fact that as the present petitioner arraigned as an accused and he sold out the oil material, which is industrial oil.

6. Perusing the FSL report, it appears that the said material is not terms in the bio-diesel as it is hydrocarbon petroleum.

7. Considering the fact that as the present petitioner is arraigned as an accused, which is based on the vicarious liability. Considering the aforesaid fact, the present petition deserves consideration.

8. Rule, returnable on **08.07.2024**. Learned APP waives service of notice of rule on behalf of respondent-State.

9. **Interim relief, in terms of para 8(B) is granted qua the present petitioner only till then.** Direct service is permitted.

10. To be heard with Special Criminal Application No.5107 of 2024.

(HASMUKH D. SUTHAR,J)

ALI