

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 6394 of 2025**

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MANUSH S/O USHIRBHAI SHAH
Versus
STATE OF GUJARAT & ANR.

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Appearance:

JAY J JANI(9303) for the Applicant(s) No. 1
MR HEMAL P SHAH(3948) for the Applicant(s) No. 1
MS. SHRUTI PATHAKI, LD ADDL. PUBLIC PROSECUTOR for the
Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 02/05/2025****ORAL ORDER**

Learned advocate Mr. Virat Popat appearing for the applicant submits that pursuant to the registration of the impugned FIR for the incident alleged therein, investigation was commenced, and ultimately, at the end of investigation, charge-sheet also came to be filed, wherein the present applicant has been shown as accused No.10 (as per FIR accused No.13). The said charge-sheet is already appended along with the memo of the application. Learned advocate Mr. Popat further submits that the allegations leveled against the applicant in the FIR as well as in the charge-sheet are under the provisions of Sections 23(e), 23(a) (f), 23(g) and 23(h) of The Securities Contracts Regulation Act, 1956 (for short 'the Act, 1956'). He submits that the court has erred in taking cognizance of the offence punishable under the Act, 1956 on a police report/charge-sheet which is not only contrary to law but

clear violation of the provisions of Section 26 of the said Act, which provides that no court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognized stock exchange or by any person. Learned advocate Mr. Popat also submits that the Act, 1956 would statutorily bar the Court below from taking cognizance of the offences punishable under the said Act on a charge-sheet or a police report. To substantiate his submissions, learned advocate Mr. Popat has relied upon the decision of this Court in the case of Vipulkumar Avantilal Shah vs. State of Gujarat, Special Civil Application No.1781 of 2018, decided on 15.03.2018, more particularly, the observations made in Paras-8,9 and 10.

Considering the aforesaid submissions, issue Notice, making it returnable on 21.08.2025. Learned APP waives service of notice for and on behalf of the respondent-State.

The trial court is directed not to proceed further with Special Sessions Case No.258 of 2024 till the final disposal of the present application qua the applicant herein.

(DIVYESH A. JOSHI,J)

VAHID

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ABDULVAHID ABDULSATTAR SHAIKH(HC00955), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 05/05/2025 11:26:54