

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL (REGULAR BAIL - AFTER CHARGESHEET) NO.
1477 of 2026

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AASHIFBHAI @ ALI LIYAKATBHAI ANDANI & ANR.
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR KUSHLENDRASINH R JHALA(12714) for the Appellant(s) No. 1,2
NOTICE SERVED for the Opponent(s)/Respondent(s) No. 2
MR JAY MEHTA, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 29/07/2026

ORDER

[1.0] **RULE.** Learned APP waives service of rule for the respondent-State. Though served, respondent-2 remained absent.

[2.0] Present appeal under Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocity Act") for regular bail in connection with **FIR being II-C.R.No.616 of 2017 registered with Botad Police Station, District Botad** for offences punishable under Sections 504, 506(2), 114 of the Indian Penal Code and Sections 3(1)(r), 3(2)(5)(a) of Schedule Caste and Schedule Tribes (Prevention of Atrocity) Act.

[3.0] Learned advocate appearing on behalf of the appellants submits that appellants were released on bail in the year 2017 by the Sessions Court but failed to appear before the concerned court when the matter culminated in Special Atrocity Case No.64 of 2018. As present appellants constant remained absent, appellant no.1 was declared proclaimed offender and detained in the custody

and against appellant no.2, non-bailable warrant came to be issued due to non-attending the regular court proceedings. Learned advocate further submits that the appellants are labourers and were out of station for livelihood. The appellants have deep roots in the society and they are only bread winners of their respective families and if they are detained in the custody, their family would face starvation. Learned advocate appearing on behalf of the appellants assures that the appellants will regularly attend the court proceedings. He, therefore submits that, considering the nature of the offence, the appellant may be enlarged on regular bail by imposing suitable conditions.

[4.0] Learned APP appearing on behalf of the respondent-State has opposed the present appeal and submitted that the appellants are is very much involved in the offence and if they are released, it would be very difficult to secure their presence and the trial would get protracted as the same is pending since year 2017. Therefore, present appeal does not deserve any consideration.

[5.0] While granting bail, the Court has to consider the involvement of the accused in the alleged offence, the jurisdiction to grant bail has to be exercised on the basis of the well settled principles having regard to the facts and circumstances of each case and the following factors are to be taken into consideration while considering an appeal for bail: (i) the nature of accusation and the severity of the punishment and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses and threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the

circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations are required to be considered.

[6.0] I have heard the learned advocates appearing on behalf of the respective parties and perused the investigation papers. Present appellants are labourers. One of the appellant is of Madhya Pradesh. They were already released and due to continuous absence, trial got protracted and due to this reason, non-bailable warrant and proclamation came to be issued and they came to be arrested. Learned advocate appearing on behalf of the appellants is giving assurance on behalf of the appellants that the appellants will regularly attend the court proceedings. Following aspects have been considered:

- (1) Investigation is over and charge-sheet has been filed;
- (2) Appellants are behind the bar since **25/05/2026**;
- (3) There is no possibility to conclude the trial in near future;
- (4) Prosecution has failed to point out the circumstances to continue or prolong incarceration of the appellants.

[7.0] This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra vs. Central Bureau of Investigation** reported in **[2012]1 SCC 40 as well as in the case of Gudikanti Narasimhulu And Ors vs. Public Prosecutor, High Court of Andhra Pradesh** reported in **(1978)1 SCC 240**. Obviously, the conclusion of trial will take time and keeping the accused behind the bars is nothing but amounts to pre-trial conviction and therefore, considering the celebrated principle of bail jurisprudence is that "bail is a rule and jail is exception" as well as the concept of personal liberty guaranteed

under Article 21 of the Constitution of India, present appeal deserves consideration.

[8.0] In the facts and circumstances of the case and considering the nature of the allegations made against the appellant in the FIR, without discussing the evidence in detail, prima facie, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the appellant on regular bail. Hence, the present appeal is **allowed**. The appellant is ordered to be released on regular bail in connection with **FIR being II-C.R.No.616 of 2017 registered with Botad Police Station, District Botad** on executing a personal bond of Rs.25,000/- (Rupees Twenty-five Thousand only) with **one local surety** of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

- (a) not take undue advantage of liberty or misuse liberty;
- (b) not act in a manner injurious to the interest of the prosecution & shall not obstruct or hamper the police investigation and shall not to play mischief with the evidence collected or yet to be collected by the police;
- (c) surrender passport, if any, to the Trial Court within a week;
- (d) not leave Gujarat State without prior permission of the Trial Court concerned;
- (e) mark presence before the concerned Police Station once in a month for a period of six months between 11.00 a.m. and 2.00 p.m.;
- (f) furnish Aadhar Card number, contact number/s, email ID, passport number (if having) and the present address of his residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the

residence without prior permission of Trial Court;

(g) not to directly or indirectly indulge in any illegal activity during on bail failing which learned trial Court shall have liberty to issue warrant and cancel the bail;

(h) regularly attend the court proceedings and at the event of absence, mark presence through advocate.

[9.0] The authorities 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 issue warrant or take appropriate action in the matter.

[10.0] Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with law.

[11.0] 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.

[12.0] Rule is made absolute to the aforesaid extent. Direct service is permitted.

(HASMUKH D. SUTHAR,J)

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