

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE
FIR/ORDER) NO. 16361 of 2021**

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SHIVABHAI GOVABHAI DAYMA

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR M R SAIYED(3362) for the Applicant(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2

MR HIMANSHU K. PATEL, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 10/06/2024****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 **FIR being C.R.No.11217029210891 of 2021 registered at Sami Police Station, Dist. Patan**, for the offence under Sections 406 and 420 of Indian Penal Code, 1860 and Sections 3 and 7 of the Essential Commodities act and Section 9(B)(1)(b) of the Explosive Act and other consequential proceedings.

2. At the instance of respondent No.2, FIR came to be registered, wherein it is alleged that, the applicant was engaged in illegally selling of diesel and therefore, sample was taken and sent to FSL, wherein, it was opined that said material is not termed as "Bio-Diesel". Hence, question does not arise that the said material is bio-

Diesel. Thereby, the applicant has committed an offence as alleged in the FIR.

3. Learned counsel for the applicant submits that, the applicant is farmer and he is bonafide purchaser of the Diesel and for that, he has produced bill. He further submits that, the applicant is doing agriculture activities and for that purpose only, tractor and JCB machines are being used and for that, he stored diesel. Except this, no allegations are levelled and no breach of essential commodities are made. Even no offence under Sections 406 and 420 of Indian Penal Code, 1860 are being attracted. So far allegation of Explosives Act are concerned, no any material which suggests that the said material was highly inflammable.

4. In view of the above, present petition deserves consideration. Hence, **Rule**, returnable on **01.07.2024**. Learned APP waives service of Rule for and on behalf of respondent No.1 - State. Meanwhile, ad-interim relief in terms of para 6 (B) is granted.

Respondent No.2 to be served through the concerned Police Station.

(HASMUKH D. SUTHAR,J)

SUCHIT