

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO.
11527 of 2025**

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VITHALBHAI JAGABHAI ALGOTAR BHARWAD & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR VIRAT G POPAT(3710) for the Applicant(s) No. 1,2,3,4,5

NOTICE SERVED for the Respondent(s) No. 2

APP MR BHARGAV PANDYA for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 08/09/2025****ORAL ORDER**

1. Heard learned advocate for the respective parties.
2. Learned advocate for the applicant submitted that the present applicant is the owner of the tractor, and the deceased was driving the said tractor at the time of the incident. While driving, the deceased accidentally fell into a pit. Applicant No. 1 is the owner of the vehicle, and the others are partners with no past antecedents. There is no direct nexus on the part of the present applicant. No role can be attributed to the present applicant, in commission of an offence under section 105.
3. Learned APP has opposed the application on the grounds that the present applicants have multiple past antecedents of a similar nature and were engaged in illegal mining. There were numerous pits, and the alleged incident occurred due to this. The applicants had sufficient knowledge of the situation. Furthermore, during the course of investigation, other offences have been established, and provisions of the

Mines and Minerals (Development and Regulation) Act have also been invoked. Therefore, it is prayed that the consent application be dismissed. Merely because a settlement has taken place between the parties, it is not a ground to quash or set aside the proceedings in respect of such a serious offence.”

4. Considering the objections raised by the learned APP, it was kept open for the applicant to made out his case on the merit. However, as no direct nexus of applicant with alleged offence or recklessness and applicant is arraying an accused based on Principal of Vicarious liability.

5. No coercive steps in connection of impugned **Cr. No. 11211035250367 of 205 registered at Muli Police Station, District Surendranagar** against applicant accused. However, applicant shall have to join an investigation.

Considering the aforesaid facts, petition deserves consideration.

RULE returnable on **08.11.2025**.

Learned APP waives service of notice of Rule for and on behalf of the respondent – State of Gujarat.

Respondent no. 2 be served through concerned Police Station.

Direct Service is permitted.

(HASMUKH D. SUTHAR,J)

Kaushal Rathod