

D5  
SLP(Crl.)No. 506 OF 2001

ITEM No.34

Court No. 5

SECTION IIA  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 506/2001  
(From the judgement and order dated 27/12/2000 in CRLMA 6658/2000  
of The HIGH COURT OF GUJARAT AT AHMEDABAD)

BAL KRISHNA UMARSHI GAJRA & ORS. Petitioner (s)

VERSUS

STATE OF GUJARAT Respondent (s)

( With Appln(s). for bail )  
( With Office Report )

Date : 27/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS  
HON'BLE MR. JUSTICE S.N. VARIAVA

For Petitioner (s) Mr. RK Jain, Sr.Adv.  
Mr. R.K. Maheshwari,Adv.

For Respondent (s) Ms. Hemantika Wahi,Adv.  
Ms. Sumita Mukherjee, adv.

UPON hearing counsel the Court made the following

O R D E R

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Leave granted.  
Appeal is disposed of.

.SP1 Hemalatha (HK Bhatia)  
Court Master

(signed order is placed on file)

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IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.748 of 2001@@  
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(Arising out of SLP(Cr) No.506 of 2001)

BAL KRISHNA UMARSHI GAJRA & ORS. .. APPELLANT

vs.

STATE OF GUJARAT

..RESPONDENT

O R D E R@@  
EEEEEEEEEE

.SP2

11 accused are languishing in jail as undertrial prisoners for the last three years. When they applied for bail at different stages the sessions court and the High Court refused them bail. They are interned in the jail at Bhuj, Gujarat. On account of the earthquake which devastated Gujarat on 26th January, 2001, even the jail got crumbled and the internees had to be out for some time. It is admitted by the State that they all had gone back to the jail without the State taking any action against them.

We thought that the trial court would be in a position to complete the trial if some time was granted. Accordingly we granted the time. Learned counsel for the State reported on 9.5.2001 that the trial would be completed by the end of May of this year. Accordingly this lis was ordered to be posted after summer vacation. Today, we are told that the earlier expectation became awry, not on account of any lapse or laches on the part

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of the detained persons but because the State could not provide a proper court room for conducting the trial. The trial judge sought directions from the High Court and now the High Court permitted the trial judge to complete the trial only by the end of October, 2001. As the manner in which the court proceedings are lingering on we have reason to have the hunch that the said time limit may also get further postponed. Keeping them as undertrial priosners without the prospect of the trial being held is not proper.

In the aforesaid situation we are inclined to order release of the appellants on bail on certain conditions. We, therefore, direct them to be released on bail on each of them executing a bond in a sum of Rs.25,000/- with two solvent sureties to the satisfaction of the trial judge. We impose the following conditions on the appellants to be complied with during the pendency of the trial:-

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1. They shall report to the Bhuj Taluka Police Station on all Sundays between 4.00 P.M. to 6.00 P.M. unless anyone of them gets exemption by the order of the trial court for any day;
2. They shall all be present in court on the posting dates, unless by specific order of the sessions judge he is exempted from appearance on valid ground (in which case a counsel on his behalf shall be present with the request to proceed with the trial notwithstanding his absence as the

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counsel will be present for him and his

identity as the particular accused will not be disputed;

3. If anyone of the appellants is not present on any posting date without permission as aforesaid the trial judge shall cancel the bail and put him back to the jail;
4. If there is any reasonable cause for the prosecution to apprehend that any of the appellants would tamper with the evidence or intimidate prosecution witnesses it is open to the prosecution to move for cancellation of bail application; and
5. If any of the appellants is possessed with passport the same shall be surrendered before the trial court. Each appellant should file an affidavit before the trial court stating whether he is the holder of a passport or not.

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With these observations the appeal is disposed of.

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.....J  
(K.T. Thomas)

New Delhi  
July 27, 2001

.....J  
(S.N. Variava)