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W.P.(Crl.)No. 109 OF 2003

ITEM Nos.28 to 31

Court No. 1

SECTION PIL/XVIA/
IIA/IX/X

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

Item No. 28

Writ Petition(Crl.) No. 109/2003

NATIONAL HUMAN RIGHTS COMMISSION

Petitioner (s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent (s)

(With Appln(s). for intervention. and exemption from filing O.T. and directions and office report)

With

T.P.(Crl.) Nos.194-202/2003 & 326-329/2003

(National Human Rights Commission vs. State of Gujarat & ors.)

(with appln.(s) for stay and exemption from filing copies of FIR and impleading party and permission to place additional documents on record and office report)

W.P(Crl.)No.D17953/2003 (Umed Singh Gulia vs. Union of India & Anr.)
(with office report),

SLP(Crl.)No.3770/2003 (Citizens for Justice & Peace & Ors. vs. State of Gujarat & Ors.) (with appln.(s) for permission to file addl. Facts and documents on record and directions and office report),

SLP(C) No. 7951/2002 (Viraj Tra Desai vs. State of Gujarat & Ors.) (with appln.(s) for exemption from filing c/c of the impugned judgment and permission to place addl. documents on record),

WP(Crl.) Nos. 11-15/2003 (Aleque Padamsee & Ors. vs. Union of India & Ors.) (with appln.(s) for permission to submit additional documents and directions and office report),

WP(C) No. 310/1996 (Prakash Singh & Ors. vs. U O I & Ors.) (with office report),

SLP(Crl.) No. 4409/2003 (Yusufkhan Muradkhan Pathan vs. State of Gujarat & Ors.)
(with appln.(s) for stay and office report),

WP(Crl.) No. 216/2003 (Yusufkhan Muradkhan Pathan vs. State of Gujarat)
(with office report)

TP(Crl.) Nos. 66-72/2004 (Citizens for Justice & Peace & Ors. vs. State of Gujarat & Ors.) (with appln.(s) for permission to file TP and ex-parte stay and directions)

and Item No. 29

Writ Petition (Civil) No. 221/2002 (Mallika Sarabhai & ors. vs. Union of India & Ors.)
(with appln.(s) for amendment of the petition and interim relief)
(with IAs 13-14 for directions and exemption from filing OT)

with

WP(Crl.) No. 37-52/2002 (Devendrabhai N. Pathak & Ors. vs. State of Gujarat & Ors.) (with appln.(s) for amendment of the petition and permission to submit additional documents and exemption from filing OT and interim directions and office report)

WP(C) No. 530/2002 (Mahashweta Devi & Ors. vs. Union of India & Ors.)
(with appln.(s) for directions and office report)

and Item No. 30

Writ Petition (Crl.) No. 284/2003 (Imran Mohamad Salim Dawood vs. Union of
India & Anr.) (with office report)

with
TP(Crl.) No. 43/2004 (for prel. Hearing)
(Imran Mohammad Salim Dawood vs. Union of India & Ors.) (with appln.(s)
for ex-parte stay and exemption from filing OT and office report)

and Item No. 31

SLP(Crl.) No. 5309/2003 (Citizens For Justice & Peace & Anr. vs. State of Gujarat & Ors.) (wit
h appln.(s) for c/delay in filing SLP and exemption from filing c/c of the impugned judgment a
nd exemption from filing O.T. and office report)

Date : 27/02/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE S.H. KAPADIA

Amicus CuriaeMr. Harish N Salve, Sr. Adv.
Ms. Meenakshi Sakhardande, Adv.
Mr. Sidhhartha Choudhary, Adv.
Ms. Aparjita Singh, Adv.
Mr. Bhargava V Desai, Adv.(NP)
Mr. Sanjeev Kr. Singh, Adv.
Mr. Pradeep Kr. Malik, Adv.
Ms. Gayatri Goswami, Adv.

For Petitioner (s)
in WP 109 &
TP 194-202 &
326-329/03Mr. T R Andhyarujina, Sr. Adv.
Mr. S. Muralidhar, Adv.
Mr. Somiran Sharma, Adv.
Mr. Amit Sharma, Adv.

in WPD17953In person.(NP)

in SLP 3770Mr. Anil B Divan, Sr. Adv.
Mr. Mihir Desai, Adv.
Ms. Aparna Bhat, Adv.
Mr. P Ramesh Kumar, Adv.

in SLP 7951M/s. J S Wad & Co., Advs.(NP)

in WP(Crl.) 11-15Mr. Mihir Desai, Adv.
Ms. Aparna Bhat, Adv.
Mr. P Ramesh Kumar, Adv.

in WP 310/96Mr. Prashant Bhushan, Adv.
Er. Anil Kumar Mittal, Adv.

in SLP(Crl.) 4409 &
WP(Crl.) 216Mr. Huzefa Ahmadi, Adv.
Mr. Ejaz Maqbool, Adv.
Mr. Nakul Dewan, Adv.
Mr. Abhimeet Sinha, Adv.
Ms. Minakshi Nag, Adv.
Mr. Gourav Kejriwal, Adv.

in TP(Crl.)66-72Mr. Anil B Divan, Sr. Adv.
Mr. Mihir Desai, Adv.
Ms. Aparna Bhat, Adv.
Mr. P Ramesh Kumar, Adv.

in WP(Crl.)221/02Ms. Indira Jaising, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agarwal, Adv.
Mr. E C Agrawala, Adv.

in WP(Crl.)37-52/02Mr. Anil B Divan, Sr. Adv.
Mr. Mihir Desai, Adv.
Ms. Aparna Bhat, Adv.
Mr. P Ramesh Kumar, Adv.
Ms. Priya Kiran, Adv.

WP(C) 530/02Mr. Lakshmi Raman Singh, Adv.
Mr. Vivek Singh, Adv.
Mr. Amitesh Kumar, Adv.
Mr. Chand Prakash, Adv.

in WP(Crl.) 284Ms. Indira Jaising, Sr. Adv.
Mr. Naveen R Nath, Adv.

in TP(Crl.) 43 Mr. Naveen R Nath, Adv.

SLP(Crl.) 5309/03Mr. Mihir Desai, Adv.
Ms. Aparna Bhat, Adv.
Mr. P Ramesh Kumar, Adv.
Ms. Priya Kiran, Adv.

For Respondent (s)

Union of IndiaMr. Kirit N Raval, Solicitor General
Ms. Sushma Suri, Adv.
Mr. A Mariarputham, Adv.
Ms. Sushma Suri, Adv.
Mr. Prateek Jalan, Adv.
Mr. Rajeev Sharma, Adv.
Mr. Amit Mahajan, Adv.
Mr. Saurabh Kirpal, Adv.

State of GujaratMr. Mukul Rohtagi, Addl. Solicitor General
Mr. Kamal Trivedi, Addl. Adv. Genl.
Ms. Hemantika Wahi, Adv.

Ms. Archana Palkar, Adv.

in TP(Crl.)194-202&
326-329
Ms. Aparna Bhat, Adv.

Mr. K T S Tulsi, Sr. Adv.
Mr. Lalit Chauhan, Adv.
Mr. Sumit Goel, Adv.
Mr. P H Parekh, Adv.
for P H Parekh & Co., Advs.

Ms. Nitya Ramakrishnan, Adv.
Ms. Anita Shenoy, Adv.
Mr. Shiladitya Rakshit, Adv

Dr. Kailash Chand, Adv.

Mr. Sushil Kumar, Sr. Adv.
Mr. Adolf Mathew, Adv.
Mr. Vinay Arora, Adv.
Mr. Sanjay Jain, Adv.

Mr. Sushil Kumar, Sr. Adv.
Mr. Vinod Gajjar, Adv.
Mr. Nikhil Goel, Adv.
Mr. Dilip Trivedi, Adv.
Mr. S N Bhat, Adv.
Dr. Kailash Chand, Adv.
Mr. Rashmikumar Nanilal Vithlani, Adv.

R.Nos.2-22 in Mr. K T S Tulasi, Sr. Adv.
SLP 3770Mr. Lalit Chauhan, Adv.
Mr. Sameer Parekh, Adv.
for M/s. P H Parekh & Co., Adv.

in WP(Crl.)11-15Mr. Ravindra K Adsure, Adv.
Mr. V N Raghupathy, Adv.

in WP 310
Mr. P Parmeswaran, Adv.

State of Assam Ms. Krishna Sarma, Adv.
Mr. Sanjay Choudhary, Adv.
Ms. Asha G Nair, Adv.
for Corporate Law Group, Adv.

State of Andhra Pradesh Mr. T V Ratnam, Adv.
Mr. K Subba Rao, Adv.

State of Goa Ms. A Subhashini, Adv.

State of Haryana Mr. J B Mudgil, Adv.
Mr. Sanjay Singh, Adv.
Mr. Neeraj Kumar Jain, Adv.
Mr. Praveen Kumar Rai, Adv.
Ms. Kavita Wadia, Adv.

State of H.P. Mr. J S Attri, Adv.

State of J & K
Mr. Anis Suhrawardy, Adv.

State of Karnataka Mr. Sanjay R Hegde, Adv.

State of Manipur Mr. KH Nobin Singh, Adv.

State of Meghalaya Mr. Ranjan Mukherjee, Adv.

State of Maharashtra Mr. Ravindra K Adsure, Adv.
Mr. Mukesh K Giri, Adv.

State of M.P. Mr. Sakesh Singh, Adv.
Mr. Satish K Agnihotri, Adv.

State of Nagaland Mr. U Hazarika, Adv.
Ms. Madhvi Sharma, Adv.
Ms. Sumita Hazarika, Adv.

State of Orissa Mr. Jana Kalyan Das, Adv.

State of Punjab Mr. Sarup Singh, Sr. Adv. Genl.
Mr. R S Suri, Adv.

State of Rajasthan Ms. Sandhya Goswami, Adv.

State of Sikkim Mr. A Mariarputham, Adv.
Ms. Aruna Mathur, Adv.
For M/s. Arputham, Aruna & Co., Advs.

State of TN Mr. Subramonium Prasad, Adv.

Mr. H K Puri, Adv.
Mr. Ujjwal Banerjee, Adv.
Mr. S K Puri, Adv.
Mr. Shiv Gupta, Adv.

Mr. K R Nagaraja, Adv.

Mr. Shri Narain, Adv.
Mr. Sandeep Narain, Adv.
Ms. Anjali Jha, Adv.
for S Narain & Co., Advs.
(in IA 3/99)

Mr. S Ravindra Bhat, Adv.

Ms. Revathy Raghavan, Adv.

in WP 221/02
Mr P H Parekh, Adv.
Mr. E R Kumar, Adv.
Mr. Sanand Ramakrishnan, Adv.

Ms. Neeru Vaid, Adv.

Mr. P S Mishra, Sr. Adv.
Mr. S Chandra Shekhar, Adv.
Mr. C D Singh, Adv.

Mr. Rajan Narain, Adv.

Mr. Nikhil Goel, Adv.
Ms. Sheela Goel, Adv.

Mr. Imtiaz Ahmed, Adv.
Ms. Naghma Imtiaz, Adv.
Mr. Kamran Malik, Adv.
Mr. V N Raghupathy, Adv.

Dr. Nafis A Siddiqui, Adv.

in WP 530/02
Mr. Nikhil Nayyar, Adv.

in WP(Crl.)284/03
Mr. A D N Rao, Adv.

For Petitioner (s)
in intervention/
impleadment petns
in WP 109. Mr. C D Singh, Adv.
Mr. Vijay Pratap Singh, Adv.

Dr. Nafis A Siddiqui, Adv.

Mr. Imtiaz Ahmed, Adv.
Ms. Naghma Imtiaz, Adv.
Mr. Kamran Malik, Adv.

Mr. V N Raghupathy, Adv.

in TP 194-202

& 326-329 Mr. Mihir Desai, Adv.

Ms. Aparna Bhat, Adv.

Mr. P Ramesh Kumar, Adv.

Ms. Priya Kiran, Adv.

UPON hearing counsel the Court made the following
O R D E R

WP(Crl.) No. 109/2003, TP(Crl.) Nos. 194-202/2003 & 326-329/2003, WP(Crl.) No. D17953/2003, SLP(Crl.) No. 3770/2003, SLP(C) No. 7951/2002, WP(Crl.) Nos. 11-15/2003, WP(C) No 310/1996, SLP(Crl.) No. 4409/2003, WP(Crl.) No. 216/2003 and TP(Crl.) No. 66-72/2004

Shri Harish N Salve, the learned Amicus Curiae has given particulars of the cases in his letter dated 3.2.2004, documents of which are required to be made available to him by the State of Gujarat. Learned counsel appearing for the State of Gujarat shall hand over, within two weeks, all the relevant papers/documents relating to the cases the particulars of which are given in the said letter to Shri Bhargava V Desai, Adv. who is assisting Shri Harish N Salve.

List all these matters on 2nd April, 2004.

Shri Mukul Rohtagi, learned Additional Solicitor General appearing for the State of Gujarat states that the State of Gujarat is filing appeals before the High Court in appropriate cases against the grant of bail by the Session Court in the eight session trials which have been stayed by this Court.

We may clarify that pendency of these proceedings shall not preclude the High Court from entertaining and deciding any appeal filed against grant or refusal of bail by the Session Courts and also to consider other bail matters which are pending before the High Court.

The learned Amicus Curiae has submitted a further note today to this Court and para 8 of the said note is in regard to entrusting the Union of India with the responsibility of providing appropriate protection to all the witnesses involved in the major trials in the State of Gujarat (including the Bilkis' case) in the manner which they consider appropriate including wherever necessary by resort to the Central forces. Learned Solicitor General prays for and is allowed three weeks' time to file a response thereto. This note of the learned Amicus Curiae to be taken on record and be put up on 15th March, 2004.

A compilation of representations has been submitted in Court today. Let a copy of Crl.M.P. No. 8165/2003 in SLP(C) No. 3770/03 along with a copy of the above compilation be given to the learned Additional Solicitor General and also to the Standing Counsel for the State of Gujarat. Put up this matter also on 15th March, 2004.

WP(C) No. 212/2002, WP(Crl.) Nos. 37-52/2002 and WP(C) No.530/2002.

List these matters on 2nd April, 2004 except I.A. Nos. 13-14 in WP(C) No. 212/2002 which shall be listed on 8th March, 2004. By that time, learned senior counsel appearing for the petitioners in WP(C) No. 221/2002 shall obtain instructions as regards the order passed by the Session Court lifting restrictions on movements of Ms. Mallika Sarabhai.

WP(Crl.) No. 284/2003 & TP(Crl.) No. 43/2004

Learned Additional Solicitor General appearing for the State of Gujarat states that by 8th March, 2004, the State shall furnish particulars of the cases in which the State proposes to file appeal against grant of bail. List these matters on 8th March, 2004.

SLP(Crl.) No. 5309/2003

List this petition on 2nd April, 2004.

(D.P. WALIA)

COURT MASTER

(JANKI BHATIA)

COURT MASTER