

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 518 OF 2020  
(Arising out of SLP (CrI.) No. 780/2020)

BHANUBHAI JODHABHAI BHARVAD

Appellant(s)

VERSUS

THE STATE OF GUJARAT

Respondent(s)

WITH

CRIMINAL APPEAL NO. 519 OF 2020  
(Arising out of SLP(CrI) No. 3013/2020)

O R D E R

Leave granted.

Having heard learned counsel for both sides, we are of the view that the High Court ought not to have cancelled the bail in this particular case. We have been shown the charge sheet in FIR being F.C.R. No. 100/2019 dated 30.08.2019 in which against the name of Bhanubhai Jodhabhai Bharvad what is made clear is that he along with certain others specifically indulged in an assault which is described in great detail in the charge sheet from pages 90-92 of SLP (CrI.) No. 3013/2020.

However, in the impugned order dated 06.03.2020, the learned Public Prosecutor has opposed the application for bail in this very FIR read with the charge sheet stating:

“Learned Public Prosecutor has opposed the application by submitting that the applicant is the main person and had cleverly avoided coming in picture though the entire offence is committed at the behest of the applicant himself. It is submitted

that the investigating agency has sufficient evidence in the form of photographs of CCTV Footage to indicate the presence of the applicant in the Court premises which is very near to the place of incident and thereafter, his telephonic conversation with a witness with regard to the incident. It is further submitted that the applicant knowing full well that he is under conditional bail of the High Court had deliberately managed the offence from behind the scene. It is lastly submitted that the parity cannot be applied in the case of the applicant as there are at least 13 offences which are registered against the applicant of similar nature and therefore, the applicant is having several antecedents. It is also submitted that the applicant has been convicted in an offence and upon his conviction, he was enlarged on conditional bail by the Division Bench of this Court and therefore, he was under the conditions of bail when the incident took place and therefore, also discretion may not be exercised in favour of the applicant."

On a perusal of the statement of the learned Public Prosecutor what becomes clear is that Bhanubhai Jodhabhai Bharvad unlike what is stated in the charge sheet is alleged to have masterminded the entire offence that is supposed to have taken place outside the Court premises. The variance between the FIR and the charge sheet filed makes it clear of the improbability of the allegations. This being so, and the cancellation of bail taking place passed only on this charge sheet, it is difficult to sustain the order dated 18.12.2019. This order is accordingly set aside. Equally, the order dated 06.03.2020 which is based only on the factum of cancellation having taken place also therefore has no legs to

stand. This being so, it is obvious Bhanubhai Jodhabhai Bharwad cannot be stated to have breached conditions (a) & (b) of the order dated 23.11.2016. The cancellation being wrong, he deserves also enlarged on bail, subject to the conditions in the charge sheet.

Mr. Aniruddha P. Mayee, learned counsel for the State then pointed out that the appellant herein is a history sheeter being a muscle man and a thug has been involved in as many as 14 cases. We have gone through the 14 cases which have been lodged against the appellant. Except for one of them being a case of 2002, in all the other cases, there is either clean acquittal or a quashing petition pending in the High Court. The charge of history sheeter and thug, therefore, also apart from using the epithet does not appear to have been made out. This ground also does not avail of the State. Both the appeals are allowed in the above terms.

Needless to add all observations made in this case are prima facie and for the purpose of setting aside the order of cancellation of bail and grant of bail respectively.

..... J.  
(ROHINTON FALI NARIMAN)

..... J.  
(NAVIN SINHA)

..... J.  
(INDIRA BANERJEE)

New Delhi;  
August 13, 2020.

ITEM NO.14                      Court 4 (Video Conferencing)                      SECTION II-B  
 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(s). 780/2020

(Arising out of impugned final judgment and order dated 18-12-2019 in CRLMA No. 1/2019 passed by the High Court Of Gujarat At Ahmedabad)

BHANUBHAI JODHABHAI BHARVAD                      Petitioner(s)

VERSUS

THE STATE OF GUJARAT                      Respondent(s)

(FOR ADMISSION and I.R. and IA No.17319/2020-EXEMPTION FROM FILING O.T.)

WITH SLP(Crl) No. 3013/2020 (II-B)

(FOR ADMISSION and I.R. and IA No.59646/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.59644/2020-EXEMPTION FROM FILING O.T. and IA No.59642/2020-PERMISSION TO PLACE ON RECORD SUBSEQUENT FACTS and IA No.59640/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 13-08-2020 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
 HON'BLE MR. JUSTICE NAVIN SINHA  
 HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s)                      Mr. D.N. Ray, Adv.  
    Mr. Hriday Buch, Adv.  
    Mr. Pritesh A. Vaghela, Adv.  
    Mr. Lokesh Kumar Chaudhary, Adv.  
    Mr. Dillip Kumar Nayak, Adv.  
    Ms. Disha Ray, Adv.  
    Mrs. Sumita Ray, AOR

For Respondent(s)                      Mr. Aniruddha P. Mayee, AOR

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

Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications stand disposed of.

(R. NATARAJAN)  
 ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)  
 BRANCH OFFICER

(Signed order is placed on the file)

