

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
Criminal Appeal No 528 of 2020**

Nasim @ Rajubhai Sahjadhuseen Mansuri

.... Appellant(s)

Versus

State of Gujarat

....Respondent(s)

ORDER

- 1 The application for bail filed by the appellant is listed on board. With the consent of the counsel for the appellant and the counsel for the respondent - State of Gujarat, the appeal is taken up for disposal, at this stage.
- 2 The appeal arises from a judgment of a Division Bench of the High Court of Gujarat dated 22 February 2016 in Criminal Appeal No 2323 of 2008. The appellant was convicted by a judgment and order dated 10 July 2008 of the Fast Track Judge, Court No 5, City Sessions Court, Ahmedabad in Sessions Case No 296 of 2007 for an offence punishable under Section 302 of the Indian Penal Code 1860 and was sentenced to suffer imprisonment for life. The appellant has also been convicted for cognate offences.
- 3 In the appellate judgment of the High Court, which forms the subject matter of the present appeal, the entirety of the discussion is confined to one brief paragraph, namely, paragraph 9 of the judgment. We find from the record that

the High Court has not considered the entirety of the evidence in a holistic perspective which was necessary having regard to the fact that it was seized of an appeal against the order of conviction and sentence. In this view of the matter, we have indicated to the counsel that it would be appropriate and proper that the appeal is remanded back to the High Court for a fresh decision. We order accordingly. On remand, it would be open to the appellant to pursue all remedies as are available to an appellant against an order of conviction, pending the disposal of the appeal.

- 4 We accordingly allow the appeal and set aside the impugned judgment and order dated 22 February 2016 of the Division Bench of the High Court of Gujarat. Criminal Appeal No 2323 of 2008 is restored to the file of the High Court for disposal afresh.
- 5 We clarify that since the appeal has been allowed on the above ground, we have not expressed any opinion on the merits of the conviction or on the rival contentions of the appellant and the State of Gujarat.
- 6 Since the appeal relates to the year 2008, we would request the High Court, on remand, to endeavour an expeditious disposal of the appeal and to set down the appeal for early hearing.
- 7 The Court is apprised by the counsel appearing on behalf of the appellant that the appellant is lodged at Ahmedabad Central Jail. A copy of the present order shall be communicated by the Registry to the appellant through the Jail Superintendent, Ahmedabad Central Jail.

8 Pending application, if any, stands disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Surya Kant]

.....J.
[Bela M Trivedi]

New Delhi;
March 22, 2022
-S-

ITEM NO.2

COURT NO.4

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S**Criminal Appeal No(s).528/2020****NASIM @ RAJUBHAI SAHJADHUSEN MANSURI****Appellant(s)****VERSUS****THE STATE OF GUJARAT****Respondent(s)****(WITH IA No. 18947/2022 - GRANT OF BAIL)****Date : 22-03-2022 This appeal was called on for hearing today.****CORAM :****HON'BLE DR. JUSTICE D.Y. CHANDRACHUD**
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MS. JUSTICE BELA M. TRIVEDI**For Appellant(s) Dr. Nirmal Chopra, AOR (SCLSC)**
Mr. Manav, Adv.**For Respondent(s) Ms. Deepanwita Priyanka, AOR****UPON hearing the counsel the Court made the following**
O R D E R

- 1 The appeal is allowed in terms of the signed order.
- 2 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS**(DIPTI KHURANA)**
COURT MASTER**(Signed order is placed on the file)**