

ITEM NO.18

Court 3 (Video Conferencing)

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

Petition(s) for Special Leave to Appeal (CrI.) No.4218/2020

(Arising out of impugned final judgment and order dated 28-07-2020 in CRLMA(SOS) No. 4/2020 passed by the High Court of Gujarat at Ahmedabad)

KOYABHAI MANIYABHAI BARIYA

Petitioner(s)

VERSUS

THE STATE OF GUJARAT

Respondent(s)

(With appln.(s) for interim relief, exemption from filing c/c of the impugned judgment and exemption from filing O.T.)

Date : 11-09-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Ms. Aastha Mehta, Adv.
Ms. Vishakha, Adv.
Mr. Hardik Jain, Adv.
Mr. Atul Kumar, AOR

For Respondent(s)

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

- 1 The petitioner stands convicted of an offence under Section 302 of the Indian Penal Code and has undergone approximately 447 days of actual custody. The application for suspension of the sentence, pending the disposal of the appeal before the High Court, has been dismissed by the impugned order.

The High Court has directed that the record of proceedings and paper books of the appeal be placed before it in twelve weeks, pursuant to which the counsel for the accused and for the state could request an early hearing of the appeal.

- 2 Ms Aastha Mehta, learned counsel appearing on behalf of the petitioner submits that the petitioner is seventy-one years old and that the Baroda Central Jail where he is presently lodged, has witnessed an out-break of Covid-19 cases.
- 3 We are of the view that it would be appropriate if the petitioner moves an application before the High Court for interim bail. The High Court would best be in a position to assess the situation as it exists and to determine whether it would warrant an interim order for the release of the petitioner on bail for a stipulated period, having regard to the vulnerabilities of age and the pandemic. The petitioner is already before the High Court in the pending criminal appeal. Hence, we dispose of the Special Leave Petition by granting liberty to the petitioner to move the High Court in the terms as set out above. In the event that the petitioner moves the High Court, we would request the High Court to take up the application for interim bail on an expeditious basis. Since the application which is sought to be pressed before the High Court is not on merits but due to the Covid-19 situation, we need only clarify that the High Court would consider the application on its own merits without being bound by the impugned order.
- 4 The Special Leave Petition is accordingly disposed of.
- 5 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
AR-cum-PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER