

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

Petitions for Special Leave to Appeal (Crl.) Nos. 13407-13408/2024

(Arising out of impugned judgment and order dated 12-07-2024 in SCRA No. 8453/2024 12-07-2024 in SCRA No. 8452/2024 passed by the High Court of Gujarat at Ahmedabad)

MANUBHAI KALYANJI NAYAK

Petitioner(s)

VERSUS

THE STATE OF GUJARAT & ORS.

Respondent(s)

(IA No. 222652/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 222653/2024 - EXEMPTION FROM FILING O.T.)

WITH

ITEM NO. 64

Petitions for Special Leave to Appeal (Crl.) Nos. 13493-13494/2024

(FOR ADMISSION and I.R. and IA No.224387/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.224388/2024-EXEMPTION FROM FILING O.T.)

Date : 30-09-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. Siddharth Luthra, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Ankur Saigal, Adv.
Ms. S. Lakshmi Iyer, Adv.
Ms. Deepsikha Mishra, Adv.
Mr. Devansh Srivastava, Adv.
Mr. E. C. Agrawala, AOR

Mr. Siddharth Dave, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Ankur Saigal, Adv.
Ms. S. Lakshmi Iyer, Adv.
Ms. Deepsikha Mishra, Adv.
Mr. Devansh Srivastava, Adv.
Mr. E. C. Agrawala, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

1. Heard Mr. Siddharth Luthra and Mr. Siddharth Dave, learned senior counsel appearing for the petitioner.

2. The counsel would submit that the petitioner had filed a complaint and the High Court during the inquiry into the complaint, had granted protection to the respondent No. 2 - the accused in the complaint. This was done at a stage when the case is yet to be registered but in the event of a case being registered, the respondent No. 2 in anticipation was granted the benefit of stay of arrest order.

3. The argument of the senior counsel is that in exercise of jurisdiction under Section 482 Cr.P.C. (now, Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023), such an order could not have been passed. In support of such contention, the counsel relies on *Savitri Goenka v. Kusum Lata Damani & Ors.* reported in (2007) 14 SCC 373 where the following was said:

"4. It is to be noted that the practice of converting applications filed under Section 482 CrPC to one for bail in terms of Section 438 or 439 CrPC has not been approved by this Court. Additionally, direction was given for issuance of notice and service on the appellant which has not been done by Respondent 1-accused. The fact that the charge-sheet has been filed or bail has been granted is really of no consequence because of the fact that relief in the regular bail application appears to have been granted to Respondent 1 in view of the interim protection given by the High Court to the accused by the impugned order."

4. Issue notice, returnable in 4 weeks.

5. In the meantime, operation of the impugned orders dated 12.07.2024 and 31.07.2024 is stayed.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)
ASSISTANT REGISTRAR