

24/08/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2026**

In R/CRIMINAL APPEAL NO. 1751 of 2026

With

**CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2026**

In R/CRIMINAL APPEAL NO. 1720 of 2026

With

**CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2026**

In R/CRIMINAL APPEAL NO. 1746 of 2026

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CHAITARBHAI DAMJIBHAI VASAVA

Versus

STATE OF GUJARAT

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Appearance:

MR. IH SYED, SR.ADVOCATE with MR. ARJUN M.JOSHI, MR. ISA HAKIM,
MR. IBRAHIM HAKIM, MR. CHANDRAMANI DEV, MR. SANGAM GARG,
MR. GYANESH BHATT AND MR.PUNIT JUNEJA for the PETITIONERS.
MR. MITESH AMIN, SPECIAL PUBLIC PROSECUTOR with MR. HARDIK
DAVE, PUBLIC PROSECUTOR assisted by MS. SHRUTI PATHAK and
MS.ASMITA PATEL, APPs for the RESPONDENT – STATE.

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CORAM:HONOURABLE MR. JUSTICE VIMAL K. VYAS

Date : 24/08/2026

IA JUDGMENT

1. Since the present applications arise from a self-same FIR and a common judgment & order of conviction and sentence, they were heard analogously and are being disposed of by this common judgment.

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2. RULE. Learned APPs Ms.Asmita Patel and Ms.Shruti Pathak waive service of notice of rule for and on behalf of the respondent-State.

3. The present applications have been preferred by the applicants-convicts (i.e. the original accused nos.1, 5 and 7, who preferred Criminal Appeal Nos.1720 of 2026, 1751 of 2026 and 1746 of 2026, respectively).

4. By way of preferring the present Criminal Miscellaneous Applications No.1 of 2026 in Criminal Appeals Nos.1720, 1751 and 1746 of 2026, under the provisions of Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicants-convicts (i.e. the original accused nos.1, 5 and 7) have prayed for suspension of sentence imposed upon them *vide* judgment and order of conviction and sentence dated 23.06.2026 passed by the learned Additional Sessions Judge, Narmada at Rajpipla, in Sessions Case Nos.6 and 5 of 2025.

5. By the aforesaid judgment and order of conviction and sentence, the present applicants-accused have been held guilty and convicted for the commission of offences punishable under

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Sections 143, 147, 148, 149, 189, 332, 353, 386, 294(b), 506(2), 201 and 34 of the Indian Penal Code, as well as, under Section 25(1-a) of the Arms Act. Consequently, the applicants-accused have been ordered to undergo sentence as under : -

Original Accused Nos. 1 and 7			
Sections	Imprisonment	Fine (in Rs.)	In default of payment of fine
386 read with 34 and 149 of the IPC	Rigorous Imprisonment for seven years	25,000	Simple Imprisonment for three months
332 read with 34 and 149 of the IPC	Rigorous Imprisonment for two years	10,000	Simple Imprisonment for one month
506(2) read with 34 and 149 of the IPC	Rigorous Imprisonment for three years	15,000	Simple Imprisonment for two months
189 read with 34 and 149 of the IPC	Rigorous Imprisonment for one year	5,000	Simple Imprisonment for fifteen days
294(b) read with 34 and 149 of the IPC	Rigorous Imprisonment for one month	500	Simple Imprisonment for five days
353 read with 34 and 149 of the IPC	Rigorous Imprisonment for one year	5,000	Simple Imprisonment for fifteen days
143 of the IPC	Rigorous Imprisonment for two months	500	Simple Imprisonment for ten days
147 of the IPC	Rigorous Imprisonment for one year	5,000	Simple Imprisonment for one month
148 of the IPC	Rigorous Imprisonment for two years	10,000	Simple Imprisonment for two months

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Original Accused No. 5			
Sections	Imprisonment	Fine (in Rs.)	In default of payment of fine
386 read with 34 and 149 of the IPC	Rigorous Imprisonment for seven years	25,000	Simple Imprisonment for three months
332 read with 34 and 149 of the IPC	Rigorous Imprisonment for two years	10,000	Simple Imprisonment for one month
506(2) read with 34 and 149 of the IPC	Rigorous Imprisonment for three years	15,000	Simple Imprisonment for two months
189 read with 34 and 149 of the IPC	Rigorous Imprisonment for one year	5,000	Simple Imprisonment for fifteen days
294(b) read with 34 and 149 of the IPC	Rigorous Imprisonment for one month	500	Simple Imprisonment for five days
353 read with 34 and 149 of the IPC	Rigorous Imprisonment for one year	5,000	Simple Imprisonment for fifteen days
143 of the IPC	Rigorous Imprisonment for two months	500	Simple Imprisonment for ten days
147 of the IPC	Rigorous Imprisonment for one year	5,000	Simple Imprisonment for one month
148 of the IPC	Rigorous Imprisonment for two years	10,000	Simple Imprisonment for two months
25(1-a) of the Arms Act	Rigorous Imprisonment for seven years	50,000	Simple Imprisonment for six months
201 of the IPC	Rigorous Imprisonment for two years	20,000	Simple Imprisonment for four months

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6. It appears from the jail remarks that the present applicants-convicts have individually undergone two to three months of incarceration out of the total sentence, and the appeals preferred by them have been admitted by this Court *vide* orders dated 28.07.2026 and 31.07.2026 passed in Criminal Appeals Nos.1720 of 2026, 1746 of 2026 and 1751 of 2026, respectively.

7. As per the case of the prosecution, the incident took place in two distinct phases. The first phase relates to the incident occurred on 30.10.2023. It is alleged that the accused nos.2, 4, 6, 8 and 9 had illegally encroached upon and were unauthorizedly cultivating the Government forest lands of villages Bogaj and Zadoli of Dediapada Taluka, District Narmada, for which, they were even warned by the forest officials; however, ignoring the said warnings, they continued to cultivate the Government forest lands. Therefore, a Forest Offence Report came to be lodged on 29.10.2023 (Exh.117), and subsequently, the illegal encroachment and unauthorized cultivation of cotton crops made on the Government forest lands were removed by the forest officials on 30.10.2023 (*vide* Rojkam

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at Exh.118 and Panchkyas at Exh.119).

8. Being aggrieved by the action of the forest officials in removing the crops cultivated on the Government forest lands, the accused nos.2, 4, 6, 8 and 9 approached the present applicant-accused no.5 – Chaitarbhai Damjibhai Vasava, a local M.L.A., who then call upon the forest officials to come at his residence. It is alleged that when the forest officials visited the residence of the applicant-accused no.5, the co-accused who were also present there, started hurling abuses upon the forest officials, and the present applicant-accused no.5 even slapped the complainant (PW-1) Shivrajbhai Ruvjibhai Chaudhary twice, and then by putting them under duress and fear of dire consequences, the present applicant-accused no.5 instructed the present applicant-accused no.7 Rikeshbhai Fulsingbhai Vasava to bring a pistol and, thereafter, he fired a shot in the air from his pistol. It is further alleged that the present applicant-accused no.5 also directed the forest officials to pay the amount as demanded by the co-accused towards compensation for the damages caused by them to their crops and threatened them to face dire consequences if the amount is not paid to them as per their demands.

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9. The second phase relates to the incident occurred on 31.10.2023. It is alleged that the present applicant-accused no.1 – Jitendrabhai Nathalal Vasava, who is the P.A. to the applicant-accused no.5 – Chaitarbhai Damjibhai Vasava, had twice called the complainant on his mobile-phone and asked him to come at the Dediapada Peetha Ground; pursuant to which, the complainant (PW-1) Shivrajbhai Ruvjibhai Chaudhary along with the witness (PW-2) Umangbhai Fatesinhbhai Vasava (both forest officials) visited the place, where the applicant-accused no.1 demanded an amount of Rs.60,000=00. It is further alleged that the applicant-accused no.1 had even threatened and put the forest officials under duress and fear of dire consequences; thereby compelling them to pay Rs.60,000=00. It is also alleged that since the forest officials were not having the money, they called their colleague (PW-11) Range Forest Officer - Bharatbhai Ratanbhai Tadvī on his mobile-phone and requested him to transfer Rs.60,000=00; pursuant to which, the PW-11 transferred the amount, whereupon, the PW-1 and PW-2 withdrew the said amount of Rs.60,000=00 from the SBI ATM and paid to the accused no.6 Balirambhai Kalusingbhai Vasava (i.e. the son-in-law of Dungrabhai Bhangdabhai Vasava) as

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extortion, in accordance to their demands.

10. Thereafter, both the forest officials, i.e. the complainant (PW-1) Shivrajbhai Ruvjibhai Chaudhary and the witness (PW-2) Umangbhai Fatesingbhai Vasava, went to the forest rest house, Dediapada, and informed about the incident to the D.F.O. Nirajkumar, who, in turn, directed them to initiate legal proceedings against the accused persons. Subsequently, on the next day, i.e. on 01.11.2023, the complainant (PW-1) Shivrajbhai Chaudhary and the witness (PW-2) Umangbhai Vasava discussed the issue with other Beat Guards, namely, Alpeshbhai, Kalpeshbhai and Vasantbhai, and informed them about the assertion by the D.F.O. to initiate legal action against the accused persons. Therefore, on 02.11.2023, they went to the office of the D.F.O., and after his advice, they decided to file the complaint against the accused persons.

11. During the course of the investigation, since sufficient materials were found in the form of an oral evidence, CDR, bank statements and other documentary evidence, the applicants-accused were charge-sheeted for the alleged offences and tried by the learned Additional Sessions Judge, Narmada at Rajpipla.

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12. In order to prove the charge, the prosecution had examined, in all, 17 witnesses – including 02-Victims, 05-Panchas, 01-Doctor, 02-Bank Managers, who produced the bank statements, as well as, the CCTV footage of the ATM, 01-RFO, from whom Rs.60,000=00 was borrowed, 02-Nodal Officers of the Telecom Companies, 03-Police Officers, including the Investigating Officer, and 01-Revenue Officer. At the end of trial, after recording the further statement of the accused persons and after hearing the arguments advanced by learned counsel for the respective parties, the learned Additional Sessions Judge, *vide* judgment and order dated 23.06.2025, held the applicants guilty and convicted them for the commission of offences punishable under Sections 143, 147, 148, 149, 189, 332, 353, 386, 294B, 506(2), 201 and 34 of the Indian Penal Code, as well as, under Section 25(1-a) of The Arms Act. Consequently, they have been sentenced to undergo rigorous imprisonment for a maximum period of seven years along with the fine.

SUBMISSIONS ON BEHALF OF THE APPLICANTS-CONVICTS :

13. Learned senior advocate Mr.I.H.Syed, assisted by learned advocates Mr.Isa Hakim, Mr.Arjun Joshi, Mr.Ibrahim Hakim,

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Mr.Chandramani Dev, Mr.Sangam Garg, Mr.Gyanesh Bhatt and Mr.Punit Juneja, appearing for the applicants-convicts, took this Court through the relevant facts and circumstances of the case. At the outset, he has submitted that the prosecution's case has its genesis in the action taken by the officials of the Forest Department against the accused Nos.2, 4, 6, 8 and 9 on the allegation that they had encroached upon the forest lands and were illegally cultivating crops thereon.

14. According to the prosecution, the accused Nos.2, 4, 6, 8 and 9, namely, Ramesh Gimbabhai Vasava, Mariyamben, wife of Javerbhai Gambhirbhai Vasava, Mogaraben, wife of Rameshbhai Gimbabhai Vasava and Shakuntalaben, wife of Baliram Kalusinhbhai Vasava, respectively, had encroached upon the forest lands and were illegally cultivating the said lands. Though, several times, they were orally directed by the officials of the Forest Department to remove the illegal encroachment and cultivation made on the forest lands, they failed to comply with the said directions. Consequently, the Forest Department registered an F.O.R. against them and ultimately, removed the illegal encroachment and the standing cotton crops from the lands in question.

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15. It was further submitted that thereafter the accused Nos.2, 4, 6, 8 and 9 approached the present applicant-accused no.5, Chaitarbhai Damjibhai Vasava, a Member of the Legislative Assembly, and complained about the action taken by the forest officials. The prosecution alleges that pursuant thereto, on 30.10.2023, the present applicant-accused no.5 called upon the concerned officials of the Forest Department to his residence in the evening hours, where the other accused were also present.

16. The prosecution alleges that the present applicant-accused no.5 thereafter abused, threatened and assaulted the complainant (PW-1) Shivrajbhai Ruvjibhai Chaudhary, by slapping him twice. It is further alleged that, at the instance of the present applicant-accused no.5, the present applicant-accused no.7 Rikeshbhai Fulsingbhai Vasava brought a pistol, and thereafter the applicant-accused no.5 fired a shot in the air. The officials of the Forest Department were thereafter allegedly threatened by the present applicant-accused no.5 and directed them to pay such amount as may be demanded by the farmers towards the alleged loss suffered by them; failing which, they were again threatened to face dire consequences.

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17. The prosecution further alleges that, on the next day, i.e. 31.10.2023, the present applicant-accused no.1 Jitendrabhai Nathalal Vasava (who is the Personal Assistant to the present applicant-accused no.5 M.L.A. Chaitarbhai Vasava), telephonically called the concerned officials of the Forest Department to come at the Peetha Ground, Dediapada. It is alleged that all the accused persons, except the present applicant-accused no.5, were present there, and the forest officials were threatened and compelled by the present applicant-accused no.1 to pay an amount of Rs.60,000=00 towards the alleged damage suffered by them. The prosecution further alleges that the forest officials were thereafter compelled to withdraw the said amount from the ATM and hand over the same to the accused persons.

18. It is submitted that, on the basis of the aforesaid allegations, the FIR came to be registered against the accused persons for offences punishable under Sections 143, 147, 148, 149, 186, 189, 201, 332, 353, 386, 294(b), 506(2) and 34 of the Indian Penal Code, as well as, under Section 25(1)(a) of the Arms Act.

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19. Learned senior advocate Mr.Syed submitted that the accused persons have not committed the alleged offences, and they have been falsely implicated in the present case. According to Mr.Syed, despite the prosecution having failed to adduce cogent and unimpeachable evidence in support of the allegations levelled against the accused persons and despite the evidence led by the prosecution being unreliable and devoid of any substantive foundation, the trial court, without properly appreciating or evaluating the evidence on record, convicted all the accused persons for the alleged serious offences, mainly by invoking Sections 34 and 149 of the Indian Penal Code.

20. Learned senior advocate Mr.Syed has further submitted that, having regard to the limited and peripheral role attributed to the accused Nos.2, 3, 4, 6, 8 and 9 in the commission of the alleged offences, this Court has already suspended their sentence and enlarged them on bail.

21. It is submitted that, barring the allegation under the Arms Act, the role attributed to the present applicants-convicts is substantially similar to that of the co-accused who have been enlarged on bail upon suspending their sentence. It was

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contended that there is no distinguishing circumstance warranting any different consideration in the case of the present applicants-convicts. Mr.Syed, therefore, urged that, on the principle of parity, the sentence imposed upon the present applicants-convicts may also be suspended and they may also be enlarged on bail.

22. Learned senior advocate Mr.Syed further submitted that insofar as the offence alleged under the Arms Act is concerned, the prosecution has failed to bring on record any cogent, reliable or convincing evidence to establish the alleged use of the firearm. According to Mr.Syed, except the oral testimonies of the forest officials, namely, the complainant (PW-1) Shivrajbhai Ruvjibhai Chaudhary, (PW-2) Umangbhai Fatesingbhai Vasava and (PW-11) Bharatbhai Ratanbhai Tadvi, there is no independent witness or any corroborative piece of evidence on record to support the allegation of firing. It is submitted that admittedly no pistol, revolver or any other firearm has been recovered from the possession of the accused persons. Learned senior advocate Mr.Syed has pointed out that, though the F.S.L. authorities and the Bomb Disposal Squad examined the place of occurrence, no empty cartridge, gunpowder, firearm residue or any other

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material suggestive of the alleged firing, was found or noticed at the place of the occurrence. Mr.Syed has, therefore, submitted that, in the absence of any recovery of the alleged weapon or any physical or scientific evidence corroborating the allegation of firing, it solely rests upon the oral testimonies of the prosecution witnesses to prove the said allegation. It has been further contended that the invocation of Section 201 of the Indian Penal Code appears to have been resorted to by the Investigating Officer solely to mask the non-recovery of the alleged firearm and the lack of incriminating evidence linking the accused with the alleged offence.

23. Learned senior advocate Mr.Syed has further submitted that the allegation against the present applicant-accused no.7 Rikesh Fulsingbhai Vasava is confined to his presence at the residence of the present applicant-accused no.5 on 30.10.2023 and assertion that, upon being asked by the present applicant-accused no.5 to bring a pistol from inside the house, he brought the same. It has been contended that, even if the said allegation is accepted at its face value, it does not, by itself, establish the requisite common intention or common object to fasten him with the criminal liability by taking aid of Sections 34 and 149 of the

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Indian Penal Code. Learned senior advocate Mr.Syed has, therefore, submitted that the conviction of the present applicant-accused no.7 by taking aid of Sections 34 and 149 IPC coupled with the imposition of sentence of rigorous imprisonment for seven years by the trial court, is not sustainable in law.

24. Learned senior advocate Mr.Syed, while pointing out to the provisions of Section 25(1)(a) of the Arms Act, has submitted that, on a plain reading thereof, it essentially makes a person liable, if he is found to be in possession for sale, transfer etc., any prohibited arms or ammunition in contravention to Section 5. It is submitted that the prosecution's case in the present matter has not been proceeded on any such basis. According to learned senior advocate, there is neither any allegation nor any evidence to suggest that the accused persons were found in possession of any prohibited arms or ammunition for the purpose of sale, transfer or for any of the purposes as contemplated under Section 25(1)(a) of the Arms Act. It is, therefore, contended that the essential ingredients of the offence punishable under Section 25(1)(a) of the Arms Act are not attracted against the present applicants-convicts. Mr.Syed has submitted that if the allegation against the accused is construed

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to be one of possession of an illegal firearm, the same would attract the provisions of Section 25(1-A) of the Arms Act, which deals with the offence of contravention of Section 3 of the said Act. In that eventuality, according to learned senior advocate Mr.Syed, the requirement as contemplated under Section 39 of the Arms Act assumes significance. It is submitted that in the absence of previous sanction of the District Magistrate, as contemplated under Section 39, the charge-sheet could not have been submitted in respect of such an offence. Learned senior advocate has accordingly submitted that the prosecution in respect of the offence under the Arms Act suffers from fundamental statutory infirmity and that the conviction of the accused persons for the said offence by the trial court is erroneous and cannot be sustained in law. In support of the aforesaid submissions, learned senior advocate Mr.Syed placed reliance upon the decisions of the Supreme Court in the cases of ***Mohmed Rafiq Abdul Rahim Shaikh vs. State of Gujarat***, reported in (2018) 10 SCC 501 and ***Raosaheb Balu Killedar vs. State of Maharashtra***, reported in 1994 SCC Online SC 190.

25. Learned senior advocate Mr.Syed, while drawing the attention of the Court to the depositions of the complainant (PW-

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1) Shivrajbhai Ruvjibhai Chaudhary, (PW-2) Umangbhai Fatesingbhai Vasava and (PW-11) Bharatbhai Ratanbhai Tadvi, as well as, the documentary evidence brought on record in support thereof, has submitted that the version narrated by these witnesses has been materially improved at every successive stage. According to Mr.Syed, such improvements materially affect the credibility of the witnesses and render their evidence doubtful. It has been submitted that despite these infirmities in the evidence of the prosecution, the trial court has placed reliance upon it, and without taking into consideration the material contradictions and improvements emerging therefrom, has convicted the present applicants-accused for the alleged serious offences.

26. Learned senior advocate Mr.Syed, while drawing the attention of this Court to the evidence of the complainant, (PW-1) Shivrajbhai Chaudhary, has submitted that as per the deposition of this witness, on 31.10.2023 at about 1:30 p.m., he was telephonically informed by the present applicant-accused no.1 to come at the Peetha Ground, Dediapada. Pursuant thereto, he, along with the witness Umangbhai Vasava (PW-2), reached at the Peetha Ground, Dediapada, at about 2:15 p.m.

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According to Mr.Syed, this aspect of evidence indicates that until 2:15 p.m., no amount towards the compensation for the damages to the crops allegedly suffered by the co-accused was determined, and that it was only thereafter (i.e. after the witnesses had reached at the Peetha Ground) that they were informed to pay an amount of Rs.60,000=00. In the aforesaid circumstances, both the aforesaid witnesses contacted the Range Forest Officer, namely, Bharatbhai Ratanbhai Tadvī (PW-11) and requested him to transfer an amount of Rs.60,000=00 into their accounts. In this context, if the evidence of (PW-11) Bharatbhai Tadvī is considered, he, in his deposition at Exh.89, has stated that, while he was at Alang, he received a phone call from the complainant (PW-1) at about 12:50 p.m. in a frightened voice, requesting him to arrange and transfer an amount of Rs.60,000=00, and he later on transferred the said amount through Google Pay. Learned senior advocate Mr.Syed has, therefore, submitted that, according to the complainant (PW-1), the compensation amount was not determined until 2:15 p.m. Therefore, the complainant could not have asked the R.F.O. Bharat Tadvī (PW-11) to transfer an amount of Rs.60,000=00 at 12:50 p.m., which was an hour and a half before the amount was even decided. Mr.Syed has emphasized that this material

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inconsistency between the versions of the PW-1 and PW-11 goes to the root of the case of the prosecution. It is, thus, vehemently submitted by learned senior advocate that the aforesaid circumstances emerging from the record clearly indicate that the prosecution has subsequently fabricated the evidence and built its entire case thereupon to support the allegations levelled against the accused.

27. Learned senior advocate Mr.Syed has further submitted that the case of the prosecution is politically motivated and the evidence led by the prosecution are doubtful and unreliable. It has been contended that the trial court, without properly appreciating the material infirmities in the prosecution's case, has erroneously recorded the conviction of the accused. According to Mr.Syed, the present applicants-convicts have a fair and arguable case, raising substantial grounds for consideration in the appeals. In these circumstances, it has been urged that the sentence imposed upon the present applicants-convicts deserve to be suspended, pending final adjudication of the appeals.

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28. Learned senior advocate Mr.Syed has further submitted that, admittedly, certain other offences have also been registered against the present applicant-accused no.5, Chaitarbhai Damjibhai Vasava, a sitting Member of the Legislative Assembly, and the trials in those cases are pending. It is, however, submitted that the said accused has been enlarged on bail in all those cases. According to Mr.Syed, the mere pendency of trials in other criminal cases cannot, by itself, constitute a sufficient ground for declining to suspend the sentence imposed upon the accused in the present case, more particularly, when he has not been convicted in any of those cases. It is contended that, until an accused is held guilty in accordance with law, the presumption of innocence continues to operate in his favour. In support of the aforesaid submission, learned senior advocate Mr.Syed has placed reliance upon the decision of the Supreme Court in the case of ***Jitendra and others vs. State of U.P.***, reported in *2024 AIJEL SC 74112*.

29. Lastly, learned senior advocate Mr.Syed has submitted that the present applicants-convicts have preferred the captioned criminal appeals, and since the same came to be admitted recently by this Court *vide* orders dated 28.07.2026 and

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31.07.2026, respectively, there are very remote chances of the appeals being heard in the near future, therefore, placing reliance upon the judgment of the Supreme Court in the case of ***Bhagwan Rama Shinde Gosai and others vs. State of Gujarat***, reported in (1999) 4 SCC 421, he has urged that the sentence imposed upon the present applicants-convicts may be suspended during the pendency of the criminal appeals and they may be enlarged on bail.

SUBMISSIONS ON BEHALF OF THE RESPONDENT-STATE :

30. Learned Special Public Prosecutor Mr.Mitesh Amin, along with learned Public Prosecutor Mr.Hardik Dave, assisted by learned APPs Ms.Shruti Pathak and Ms.Asmita Patel appearing for the respondent-State, has strongly opposed the submissions advanced on behalf of the applicants-convicts. While taking this Court through the entire evidence on record, he has submitted that the prosecution's case emanates from a chain of events which has been unfolded over two consecutive days, i.e. 30.10.2023 and 31.10.2023. Drawing the attention of this Court to the evidence on record, learned Special Public Prosecutor Mr.Amin submitted that the accused Nos. 2, 4, 6, 8 and 9 had

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unauthorisedly encroached upon approximately two hectares of lands situated in the prohibited forest area and were illegally cultivating cotton crops thereon. It is submitted that one month prior to the alleged incident, when the unauthorised occupation and cultivation came to the notice of the Forest Department, the concerned officials of the Forest Department had directed the aforesaid accused persons to vacate the unauthorised occupation and remove the crops so cultivated. It is further submitted that, even five months prior to the alleged incident, the accused persons had been directed not to make any unauthorised occupation over the lands belonging to the Forest Department. Learned Special Public Prosecutor submitted that, despite such repeated directions, the accused neither vacated the forest lands nor removed the unauthorised cultivation made on the forest lands. Consequently, on 29.10.2023, the Forest Department lodged an F.O.R. (Exh.117) in respect of the said unauthorised occupation and cultivation. It is further submitted that, thereafter, with a view to avoiding any dispute or confrontation, the forest officials took action in the early hours of 30.10.2023 in accordance with law, and after preparing the Rojkam (Exh.118) and Panchkyas (Exh.119), they removed the unauthorised occupation and cultivation from the forest lands.

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31. Learned Special Public Prosecutor Mr.Amin has emphasized that the aforesaid action was undertaken by the forest officials in discharge of their official duties. He has also drawn the attention of this Court to the maps (Exhibits-98 to 107) and the photographs of the forest lands depicting the unauthorised cultivation (Exh.108).

32. Learned Special Public Prosecutor Mr.Amin has submitted that when the officials of the Forest Department, in the course of discharging their official duties, removed the unauthorised occupation and cultivation from the forest lands, the co-accused nos.2, 4, 6, 8 and 9 approached the present applicant-accused no.5 Chaitarbhai Damjibhai Vasava, a Member of the Legislative Assembly. According to Mr.Amin, the present applicant-accused no.5 and his associates wield considerable influence in the area, commanding fear and apprehension due to several serious registered offences. Mr.Amin submits that under these circumstances, the local residents find it extremely difficult to speak out or raise their voices against them.

33. Mr.Amin has further submitted that, upon being approached by the co-accused, who had unauthorisedly

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occupied the forest lands, the present applicant-accused no.5, who is a sitting M.L.A., instead of advising them to seek appropriate legal recourse, called upon the complainant, a Forest official, on 30.10.2023 at about 9:30 a.m., to appear before him. The complainant, however, did not visit him, as he was then discharging his official duties. It is further submitted that, later on, in the evening hours, the R.F.O. (PW-11) Bharatbhai Tadvī informed the complainant that he had received a phone call from the MLA, and instructed him to meet the MLA. Consequently, the complainant (PW-1), along with the Forester Umangbhai Vasava (P.W.2) and three other Beat Guards, in all, five officials of the Forest Department, proceeded to pay visit to the residence of the present applicant-accused no.5. According to Mr.Amin, the said five forest officials, dressed in uniform, were made to stand in a line, and thereafter about half an hour when the present applicant-accused no.5 arrived, he started scolding the forest officials in presence of other co-accused with regard to committing impropriety while removing the encroachment and cultivation from the lands and also told the forest officials that if they wish to continue working in the area, they would be required to pay whatever amount the farmers demand towards compensation for the alleged damage caused to their crops;

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failing which, they would face dire consequences. It is further submitted that the present applicant-accused no.5 then caught hold of the complainant by grabbing the collar of his uniform and slapped him twice on the cheek. The present applicant-accused no.5, thereafter, made all the forest officials stand in a line, made them parade, and hurled abuses at them. Learned Special Public Prosecutor Mr.Amin has further submitted that the present applicant-accused no.5 thereafter asked the applicant-accused No.7, to bring a pistol from inside the house, and subsequently, fired a shot in the air, thereby apprehending danger to the lives of the forest officials. Thereafter, the applicant-accused No.5 directed the forest officials to pay whatever amount as demanded by the farmers.

34. Learned Special Public Prosecutor Mr.Mitesh Amin has submitted that the evidence of the complainant (PW-1) Shivrajbhai Chaudhary, the Forester (PW-2) Umangbhai Vasava and the Range Forest Officer (PW-11) Bharatbhai Tadvī assumes considerable significance in this regard. According to Mr.Amin, their depositions were recorded approximately three years after the occurrence, however, save and except certain minor and natural discrepancies, their evidence remains wholly reliable and

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trustworthy. It is, therefore, submitted that such minor and natural variations, with the passage of time, do not detract from the overall credibility of the material witnesses.

35. Learned Special Public Prosecutor Mr.Amin has submitted that, on the next day, i.e. on 31.10.2023, the applicant-accused no.1, Jitendrabhai Vasava (i.e. the Personal Assistant to the applicant-accused no.5, MLA) twice made phone calls to the complainant in the afternoon hours and asked him to come at the Peetha Ground at Dediapada. It is submitted that the applicant-accused no.1 thereafter told the complainant to pay the amount demanded by the farmers, or else, be ready to face the consequences. Pursuant to which, the complainant (PW-1) and the Forester (PW-2) went at the Peetha Ground. It is alleged that the applicant-accused no.1, namely, Jitendrabhai Vasava, and the other co-accused threatened and directed the forest officials to pay Rs.60,000=00 to the accused no.6 Balirambhai Vasava towards the compensation for the alleged damage caused by the forest officials while removing the unauthorised occupation and cultivation from the forest lands. Learned Special Public Prosecutor Mr.Amin has submitted that the demand so made, though ostensibly projected as compensation

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for the alleged damage, is nothing but a demand for extortion. In support of his submission, Mr.Amin has relied not only upon the evidence of the PW-1 and PW-2, but has also drawn the attention of this Court to the depositions of the Nodal Officers of the concerned Telecom Companies and the Call Detail Records (CDRs) and Customer Application Forms produced in the evidence.

36. Learned Special Public Prosecutor Mr.Amin has further submitted that the complainant and the Forester, being junior forest officials, were not in a position to arrange for the substantial amount of Rs.60,000=00, on their own, which was being demanded by the accused persons towards compensation. Having got frightened and under tremendous pressure, they contacted the RFO (PW-11) Bharatbhai Tadvī over the phone and requested him to transfer an amount of Rs.60,000=00 into their accounts.

37. It is further submitted that, pursuant to such a request, the RFO (PW-11) Bharatbhai Tadvī transferred Rs.40,000=00 and Rs.20,000=00, respectively, from his savings bank account maintained with the State Bank of India and Bank of Baroda,

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into the account of the complainant. Thereafter, the complainant withdrew Rs.40,000=00 from his own account through an ATM and transferred an amount of Rs.20,000=00 into the account of (PW-2) Umangbhai Vasava. Thereafter, the (PW-2) Umang Vasava withdrew the amount of Rs.20,000=00 through his ATM card. Learned Special Public Prosecutor Mr.Amin has submitted that after the entire amount of Rs.60,000=00 was withdrawn, the applicant-accused No.1 Jitendrabhai Vasava compelled the forest officials to handover the said amount to the accused No.6 Balirambhai Vasava. In support of the aforesaid submissions, Mr.Amin has drawn the attention of this Court to the deposition of the complainant (PW-1) Shivrajbhai Chaudhary at Exh.32, the original complaint at Exh.33, the deposition of the witness (PW-2) Umangbhai Vasava at Exh.40 and the statements of both these witnesses recorded under Section 164 of the Code of Criminal Procedure produced at Exhibits-45 and 42, respectively. He has also drawn the attention of this Court to the deposition of the RFO (PW-11) Bharatbhai Tadvī at Exh.89.

38. Learned Special Public Prosecutor Mr.Amin has further submitted that the aforesaid evidence is duly corroborated by the testimonies of the Branch Manager, Dediapada Branch, State

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Bank of India (PW-8) Himmatsing Virendra Yadav and the Branch Manager, Dediapada Branch, Bank of Baroda (PW-9) Jagdishkumar Khansingbhai Vasava, and the bank statements of the complainant, the Forester and the RFO. According to Mr.Amin, a cumulative and conjoint reading of the aforesaid oral, as well as, documentary evidence establishes that the accused had threatened and assaulted the forest officials in discharging their official duties, and further putting them under fear of death, the accused compelled them to withdraw and pay an amount of Rs. 60,000=00 by way of extortion, under the guise of compensation towards the damage suffered by the co-accused.

39. Learned Special Public Prosecutor Mr.Amin has further submitted that, after the occurrence, the applicant-accused no.5 and other co-accused had absconded, thereby necessitating the issuance of warrants against them in accordance with Section 70 of the Code of Criminal Procedure.

40. Learned Special Public Prosecutor Mr.Amin, while drawing the attention of this Court to the discovery panchnamas at Exhibits-55 and 59, has submitted that after their arrest, both the accused no.2 Rameshbhai Gimgabhai Vasava and the

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accused no.6 Balirambhai Kalusingbhai Vasava led the investigating agency to the respective place in their house where they had kept an amount of Rs.30,000=00 each. Pursuant thereto, the entire amount of Rs.60,000=00 allegedly collected by way of extortion was recovered. Mr.Amin has further submitted that the aforesaid fact of recovery is also duly corroborated by the evidence of the panch-witnesses.

41. Learned Special Public Prosecutor Mr.Amin, while placing reliance upon the aforesaid evidence, has submitted that the very act of the accused of unauthorisedly encroaching and occupying approximately two hectares of the forest lands and illegally cultivating crops thereon, itself is unlawful. It is submitted that the action undertaken by the forest officials of removing such unauthorised occupation and cultivation from the forest lands was in discharge of their official and lawful duties. Moreover, the said action has been carried out in accordance with law after following prescribed procedure, i.e. after preparing the Rojkam and the Panchkyas. Thus, according to Mr.Amin, no lawful right of any accused person has been infringed in the course of such action. He has further submitted that, notwithstanding the aforesaid circumstances, the accused

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persons had compelled the forest officials to appear at the residence of the applicant-accused no.5 Chaitarbhai Damjibhai Vasava (an M.L.A.) and were made to stand in a line, abused and threatened by the applicant-accused no.5, who caught hold of the collar of the complainant's uniform, and thereafter slapped him twice. It is further submitted that, thereafter, the applicant-accused no.5 fired a shot in the air from his pistol, thereby putting the forest officials under fear of death, and ultimately, forcibly told them to pay an amount of Rs.60,000=00 to the co-accused under the guise of compensation. Mr.Amin has, therefore, submitted that the aforesaid acts of the accused, when considered cumulatively and in the light of the evidence on record, clearly establishes the commission of the offence of extortion by the accused.

42. Learned Special Public Prosecutor Mr.Amin has further submitted that the investigation undertaken by the police, including the searches conducted at the residence and office of the accused, could not lead to the recovery of the weapon allegedly used in the commission of the offence. It is submitted that the investigation also disclosed that, even prior to the registration of the offence, the material traces and the evidence

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in connection with the occurrence had been removed by the accused. As per Mr.Amin, it was in the backdrop of these circumstances that Section 201 of the Indian Penal Code came to be added subsequently by the Investigating Officer. It is further submitted that non-recovery of the weapon or the absence of other physical traces, in the facts of the present case, cannot be treated as destructive piece of evidence to the prosecution's case. According to Mr.Amin, notwithstanding the removal of the material evidence, the relevant facts constituting the offences have been duly established through the testimonies of the material prosecution witnesses, whose evidence, according to him, inspires confidence.

43. Learned Special Public Prosecutor Mr.Amin, while drawing the attention of this Court to the provisions of Section 25(1)(a) of the Arms Act, has submitted that the said provisions underwent an amendment with effect from 14.12.2019 *vide* Act No.48 of 2019, whereupon the expressions “**manufactures**”, “**obtains**” and “**procures**” came to be incorporated therein. Mr.Amin has submitted that pursuant to the said amendment, the provisions, as it presently stands, reads thus :-

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“25. Punishment for certain offences. - (1) Whoever— (a) manufactures, obtains, procures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; ”

44. Learned Special Public Prosecutor Mr.Amin has submitted that in view of the amended provision, the expressions “**obtains**” and “**procures**” have also been encompassed within the scope of the offence, and where the act complained of constitutes a contravention of the provisions of Section 5 of the Arms Act, the requirement of obtaining the previous sanction of the District Magistrate under Section 39 of the said Act would not arise. Mr.Amin, while drawing the attention of this Court to the judgment of the Supreme Court in the case of **Mohmed Rafiq Abdul Rahim Shaikh** (*supra*), upon which reliance has been placed on behalf of the accused, has submitted that it was rendered prior to the aforesaid amendment. It is, therefore, submitted that the said decision has to be considered in the context of the statutory provision as it stood prior to the amendment. Mr.Amin also invited the attention of the Court to **Rule 2(56)** of the Arms Rules, 2016, which contains the

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definition of “**use of a firearm**”, and requested the Court to take the said definition into consideration in the context of the present case. The relevant definition reads as under:

“2(56) “use of a firearm” includes displaying, aiming and firing as well as manipulating the working parts of a firearm but does not include cleaning or maintenance;”

45. Learned Special Public Prosecutor Mr.Amin, while drawing the attention of this Court to the depositions of the other prosecution witnesses, as well as, the testimony of the Investigating Officer (PW-17) Police Inspector Prakashchandra Jayrambhai Pandya, has submitted that when the aforesaid evidence is considered in its entirety and read conjointly with the provisions of Sections 383 and 386 of the Indian Penal Code, the prosecution has clearly established the alleged offence by the accused. Mr.Amin has, therefore, submitted that the judgment and order of conviction and sentence rendered by the trial court does not suffer from any apparent or gross error. It is, therefore, contended that having regard to the material available on record, the present applicants-convicts have no case on merits, which warrants suspension of the sentence imposed upon them, during the pendency of the appeals.

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46. Learned Special Public Prosecutor Mr.Amin has submitted that the applicant-accused no.5 is a Member of the Legislative Assembly and that having regard to the nature of the public office held by him, his conduct assumes greater significance. A person occupying such a high position is expected to act as a guide and example for others and, therefore, his speech, conduct, and the manner in which he treats other persons are matters of considerable importance. It is further submitted that the antecedents of the applicant-accused no.5 Chaitarbhai Vasava, the offences previously registered against him, and the repeated breach of the conditions imposed by the Courts while granting him bail in those cases are relevant circumstances which deserve consideration. Learned Special Public Prosecutor Mr.Amin pointed out that, in one of the cases, the applicant-accused no.5 was convicted and, thereafter, he was released on probation upon furnishing a bond to maintain good conduct for a period of two years; however, notwithstanding such benefit, he is alleged to have committed the present offence, which, according to the prosecution, also stands established. It is, therefore, submitted that the overall conduct and the antecedents of the applicant-accused no.5, as well as, the repeated disregard of the conditions imposed upon him by the

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courts, cannot be overlooked while considering the prayer for suspension of sentence.

47. On behalf of the respondent-State, the detailed statement and notes concerning the criminal antecedents of the applicant-accused no.5, Chaitarbhai Damjibhai Vasava, have been placed on record. Since there is no material dispute between the parties with regard to the contents thereof, this Court considers it appropriate to take the said statement and notes on record. The same are reproduced herein below :

Notes in respect of the Criminal Offences of the applicant – accused no.5 - MLA Chaitarbhai Damjibhai Vasava.

- The applicant is involved in total 22 offences including the present offence.
- Out of 22 offences registered against the applicant, 16 offences are committed when the applicant was specifically directed by the Competent Court of Law to either not to indulge in any offence or not to misuse the liberty granted.
- Out of 22 offences registered against the applicant, 7 offences are committed by the applicant while he was

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granted benefit of probation under section 360 of Code of Criminal Procedure instead of serving sentence when he was convicted upon certain conditions, one of which was not to indulge in any other criminal offence.

- Present offence is committed while applicant was convicted and granted benefit of probation.
- While the applicant was on bail in the present offence, and despite there being specific direction by Hon'ble Court of not to indulge in any offence in future, he has committed 9 offences before he was convicted in the present case.
- All the above Criminal Cases which are registered against the applicant has been suppressed by the applicant in the present Application for Suspension of Sentence.

Total Number of FIRs Registered against the applicant	22 FIRs
Total Number of cases in which applicant is acquitted	6 Cases
Total Number of cases in which applicant is discharged	1 Case
Total Number of Cases where B summary report is filed	1 Case

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Total Number of FIRs quashed with consent	1 FIR
Total Number of cases where investigation is stayed in quashing petition	1 Case
Total Number of cases in which applicant is convicted	2 Cases
Total Number of cases where trial is pending	5 Cases
Total Number of cases where investigation is pending	5 FIRs

Statement showing details of Offences registered against
MLA Chaitarbai Damjibhai Vasava

Sr. No.	Police Station	C.R. No.	Date	Section	Arrest Date	Bail Date	Charge-sheet Date	Judgment Date	Judgment / Status	Whether committed any offence despite there being specific direction of Hon'ble Court relating to not commit any offence or not to misuse liberty granted (Yes/No)	Page No.
1	Dediapada	I-17/2014	17.3.14	IPC Section – 143, 147, 148, 149, 323, 354(A), 504, 503 and G.P. Act 135	17.3.14		7.10.14	16.9.17	Acquitted		
2	Sagbara	C.R. No. I-16/2017	19.5.17	IPC Sections – 115, 116, 120B, 147, 148, 149,	22.6.17	22.6.17 Released on Anticipatory Bail	5.8.17	24.7.19	Acquitted		

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				395, 427, 450							
3.	Dediapada	I-36/2018	12.5.18	IPC Sections 143, 147, 149, 332, 341, 504, 506(2) and G.P. Act Section 135	2.7.18	25.6.18	3.8.18	5.10.21	Acquitted		
4.	Dediapada	I-106/2019	8.12.19	IT Act 2008 Section 67A and IPC Section 506(2), 354A(1)(4)	17.1.20	13.2.20	15.4.20	11.5.23	Acquitted		1 (FIR) 5 (Bail Order)
5.	Dediapada	Part-A C.R. No. 118230042 00429 / 2020	26.5.20	IPC Section 188, 120B, 186, 505(1) (B), 114	Pending arrest (High Court)					Yes	9
6.	Rajpipla	Part-A C.R. No. 118230172 01318/ 2020	15.9.20	IPC Section 143, 147, 148, 149, 323, 504, 506(2)	7.10.20	7.10.20	2.1.21	Court Pending		Yes	14
7.	Kevadia	Part-A C.R. No. 118230142 0009/ 2021	10.1.21	IPC Section 353, 505(1) (B), 506(1), 188, 186, 143, 147, 269, 120B and Disaster Mngmnt Act, 2005 Section 51(B)	10.1.21	10.1.21	25.2.21	3.4.23	Acquitted	Yes	19
8.	Dediapada	Part-A C.R. No. 118230042 10609/ 2021	9.8.21	IPC Section 188, 269 and Disaster Mngmnt Act, 2005 Section 51(B)	25.8.21	25.8.21	3.3.22	18.4.22	Proceedings stayed under 258 of CR.P.C. Accused Discharged	Yes	28
9.	Dediapada	Part-A C.R. No. 118230042 10651/ 2021	3.9.21	IPC Section 323, 504, 506(2), 143, 147, 427, 452, 153(A) and Disaster Mngmnt Act, 2005 Section 51(B)	4.9.21		17.12.21	27.7.22	Quashing Petition filed in High Court CR.MA. No.2824/ 2022. FIR quashed vide order dated 7.4.22	Yes	33

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10.	Dediapada	Part-A C.R.No. 118230042/10827/2021	19.12.21	IPC Section 397, 504, 506(2) and G.P. Act Section 135	31.12.21	31.12.21 (Anticipatory Bail)	6.6.22	23.5.23	Convicted for six months SI with fine. Was given benefit of probation u/s.360 of CR.P.C.	Yes	38 (FIR) 43 (Bail Order) 49 (Chargesheet) 53 (Conviction Judgment)
11.	Dediapada	Part-A C.R. No. 118230042/20473/2022	18.7.22	IPC Section 188 and G.P. Act Section 131	24.9.22	24.9.22	4.10.22	5.4.23	Acquitted	Yes	107
12.	Dediapada	Part-A C.R. No. 118230042/20543/2022	30.7.22	IPC Section 306, 506(2)	B-Summary filed						
Applicant is involved in following offences as an MLA											
13.	Dediapada	Part-A C.R. No. 118230042/31271/2023	2.11.23	Arms Act Section 25(1)(A) and IPC Section 143, 147, 148, 149, 186, 189, 332, 353, 386, 294(B), 506(2), 34	14.12.23	22.1.24	14.11.24	23.6.26	Convicted (present case)	Yes	113 (Bail Order)
14.	Dediapada	Part-A C.R. No. 118230042/41334/2024	21.9.24	BNS Section 189(2), 190, 191(2), 191(3), 115(2), 352, 351(2), 351(3), 61(2)(A)	Investigation Ongoing (Notice Issued)					Yes	125
15.	Rajpardi	Part-A C.R. No. 111990572/40853/2024	7.12.24	BNS Section 126(2), 285, 3(5)	Investigation Ongoing					Yes	131
16.	Ankleshwar GIDC	Part-A C.R. No. 111990212/41433/2024	10.12.24	BNS Section 221, 224, 329(3), 125, 126(2), 3(5)	Investigation Ongoing					Yes	137
17.	Dediapada	Part-B C.R. No.	18.2.25	BNS Section	Investigation					Yes	142

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		182300425 0173/ 2025		223 and Representa tion of People Act, 1950, 1951, 1989 – 126(2)	Ongoing (Notice Issued)						
18.	Garudeshwar	C.R. No. 118230092 50275/ 2025	5.4.25	BNS Section 221, 189(2), 126(2)	Investiga tion Ongoing (Notice Issue)					Yes	147
19.	Dediapada	Part-A C.R. No. 118230042 50922/ 2025	5.7.25	BNS Section 109(1), 79, 115(2), 118(1), 351(3), 352, 324(3)	5.7.25	23.9.25	1.9.25	Court Pending		Yes	152 (FIR) 156 (Charges heet) 163 (Bail Order)
20.	Jhagadia GIDC	Part-A C.R. No. 212/ 2026	27.4.26	BNS Section 189(2), 190, 191(2), 330(2)(f), 333, 221, 351(2), 352, 57	Investiga tion Ongoing					Yes	167
21.	Jhagadia GIDC	Part-A C.R. No. 213/ 2026	27.4.26	BNS Section 115(2), 117(3), 351(3), 352, 54	Investiga tion Ongoing					Yes	172
22.	Jhagadia GIDC	Part-A C.R. No. 214/ 2026	28.4.26	BNS Section 121, 221, 132, 352, 351(2)	Investiga tion Ongoing						178

48. Learned Special Public Prosecutor Mr.Mitesh Amin and learned Public Prosecutor Mr.Hardik Dave have jointly submitted that the role attributed to the present applicants-convicts is materially different from that of the other co-accused whose cases were earlier considered by this Court; therefore, no case for parity is made out. It is submitted that the judgment and

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order passed by the trial court is well-reasoned, legally sound, and suffers from no apparent error or infirmity, either on facts or in law. Consequently, learned counsel have submitted that the present application may not be entertained and the same may be dismissed.

49. Learned Special Public Prosecutor Mr.Amin lastly submitted that considering the ratio laid down by the Supreme Court in the case of ***Bhagwan Rama Shinde Gosai*** (*supra*), as well as, having regard to the fact that the applicant-accused no.5, who is a Member of the Legislative Assembly, the respondent-State is ready and willing to cooperate for the expeditious hearing and final disposal of the appeals preferred by the accused persons. It is submitted that the respondent-State would extend all necessary cooperation to ensure that the appeals are taken up and concluded at the earliest.

FINDINGS AND ANALYSIS :

50. This Court has given its anxious consideration to the rival submissions advanced by the learned counsel appearing for the respective parties and has carefully gone through the entire

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material on record, including the impugned judgment rendered by the trial court.

51. This Court is conscious of the settled legal position that, while considering an application for suspension of sentence, it is neither necessary nor appropriate to undertake a meticulous or in-depth appreciation or re-appreciation of the evidence led before the trial court. At this stage, the court is required to examine the material on record only for the limited purpose of determining, whether the impugned judgment of conviction suffers from any apparent or gross infirmity which, on a prima facie consideration, renders the findings of guilt recorded by the trial court unsustainable. This Court is, therefore, required to refrain itself from undertaking a detailed appreciation of the evidence with a view to substituting its own assessment or conclusion for those recorded by the trial court.

52. The Supreme Court, in the case of ***Bhupataji Sartajji Jabraji Thakor vs. The State of Gujarat*** (Special Leave to Petition (Criminal) Diary No.27298 of 2024, decided on 05.07.2024), has held as under :

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“6. When an accused is put to trial and is held guilty of the offence with which he is charged, the first thing that happens is that the presumption of innocence comes to an end. Till the accused is not held guilty, the law presumes him to be innocent. This is a well settled principle of criminal jurisprudence.

7.the only legal test which the Court should apply is to ascertain whether there is anything palpable or apparent on the face of the record on the basis of which the court can come to the conclusion that the conviction is not sustainable in law and that the convict has very fair chances of succeeding in his appeal. For applying such test, it is also not permissible for the court to undertake the exercise of re-appreciating the evidence. The emphasis is on the word ‘palpable’ and the expression ‘apparent on the face of the record’.”

53. The Supreme Court, in the case of **Omprakash Sahni vs. Jai Shankar Chaudhary and another**, reported in (2023) 6 SCC 123, has held that in order to suspend the substantive order of sentence, there ought to be something apparent or gross on the face of the record, on the basis of which the Court can arrive at a *prima facie* satisfaction that the conviction may not be sustainable.

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54. In the backdrop of the aforesaid settled legal position, this Court is required to undertake a prima facie examination of the material placed on record. Upon such scrutiny, the following aspects emerge :

(i) Upon a prima facie examination of the material on record, it emerges that the accused nos.2, 4, 6, 8 and 9 had unauthorisedly encroached upon approximately 02 hectares (equivalent to about 12½ bighas) of the forest lands, situated in Compartments Nos.207 and 333 of the Shoolpaneshwar Wildlife Sanctuary, Near Bogaj and Zadoli villages of Dediapada Taluka, and had unauthorisedly cultivated cotton crops thereon.

(ii) The record prima facie shows that the accused had neither any title nor any lawful right of possession over the aforesaid 02 hectares (equivalent to about 12½ bighas) of the forest lands, and that their occupation thereof was also by way of unauthorised encroachment. Thus, the very act of encroaching and occupying the prohibited land of the Wildlife Sanctuary and making cultivation on it is illegal from its inception.

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(iii) In the course of hearing, this Court had specifically called upon the learned counsel for the accused to indicate whether there was any material on record before the trial court showing that the possession of the aforesaid lands by the accused was authorised or supported by any lawful right, or whether any such material could be pointed out before this Court. The answer was unequivocally in the “negative”.

(iv) The aforesaid lands are admittedly form part of the forest land within the Shoolpaneshwar Wildlife Sanctuary. Despite repeated directions to remove the unauthorised cultivation of cotton crops raised over such a large tract of lands, the accused neither complied with such directions nor relinquished their unauthorised occupation. They continued to retain the possession of approximately 02 hectares (i.e. about 12½ bighas) of the forest land, without any lawful right or authority.

(v) Consequently, on 29.10.2023, an F.O.R. came to be registered by the Forest Department in respect of the aforesaid unauthorised encroachment and cultivation (Exh. 117).

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(vi) Thereafter, with a view to avoiding any untoward incident or unnecessary confrontation that might arise from the encroachers assembling in a group in the area, the officials of the Forest Department proceeded to the site in the early hours on 30.10.2023, and after preparing the Rojkam (Exh.118) and the Panchkyas (Exh.119) in accordance with the prescribed procedure, they removed the unauthorised cultivation raised over the said lands admeasuring approximately 02 hectares (equivalent to about 12½ bighas) and thereby cleared the illegal occupation and encroachment from the said lands falling within the limits of the Shoolpaneshwar Wildlife Sanctuary.

(vii) The occupation of the aforesaid lands by the accused and the cultivation undertaken thereon without any authority was, from its very inception, unlawful. Consequently, the action of the Forest Department in removing such unauthorised occupation and cultivation, having been undertaken in accordance with law and the prescribed procedure, cannot be said to have infringed any personal or legal right of the accused.

(viii) Preventing unauthorised occupation of land forming part of the Wildlife Sanctuary and removing any encroachment found

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thereon are duties entrusted to the Forest Department. The removal of the aforesaid encroachment was, therefore, an act performed by its officials in discharge of their lawful official duties.

(ix) The material on record does not indicate that any person was subjected to ill-treatment or harassment during the aforesaid proceedings, nor does it disclose any damage, destruction or vandalism of any property lawfully belonging to any person.

(x) After the officials of the Forest Department had removed the illegal occupation and unauthorised cultivation from the lands forming part of the Wildlife Sanctuary, the encroachers, at around 9 O'clock in the morning on 30.10.2023, approached the local Member of the Legislative Assembly, i.e. the present applicant-accused no.5.

(xi) The record further discloses that the applicant-accused no.5 Chaitarbhai Damjibhai Vasava, from his mobile no.9904689019, called the complainant (PW-1) Shivrajbhai Chaudhary on his mobile no.9875173306 at 09:13 a.m., and

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instructed him to come to his office for discussion concerning the aforesaid action. Since the complainant was attending his official duties, he did not come to the office of the applicant-accused no.5. The aforesaid telephonic communication is corroborated by the C.D.R. produced at Exh.149. Thereafter, at about 10:20 a.m., the applicant-accused no.5, using the same mobile number, contacted the Range Forest Officer (PW-11) Bharatbhai Tadvi, on his mobile no.9879290148 and instructed him to inform the concerned forest officials that he wished to meet them, and at about 5:47 p.m., the applicant-accused no.5 again contacted the Range Forest Officer (PW-11) Bharatbhai Tadvi, and by telling him that despite his earlier instructions, the forest officials have not attended his office, he directed the RFO to send them to his residence. The details of the aforesaid two calls reflect from the C.D.R. produced at Exh.155.

(xii) Pursuant to the aforesaid communication, on 30.10.2023, the Range Forest Officer (PW-11) Bharatbhai Tadvi (from his mobile no.9879290148) called the complainant (PW-1) Shivrajbhai Chaudhary on his mobile no.9875173306 at about 05:50 p.m. and conveyed him that the applicant-accused no.5 Chaitarbhai Vasava wanted to meet him, therefore, you go and

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meet him. The call details clearly reflect from the C.D.R. produced at Exh.149.

(xiii) Thereafter, the complainant (PW-1) Shivrajbhai Chaudhary, the Forester (PW-2) Umangbhai Vasava and the other Beat Guards, namely, Kalpesh Dabhi, Vasant Vasava and Alpesh Baraiya, proceeded to the residence of the applicant-accused no.5. The complainant (PW-1) Shivrajbhai Chaudhary and the Forester (PW-2) Umangbhai Vasava, in their respective depositions, as well as, in their statements recorded by the learned Magistrate under Section 164 of the Cr.P.C., have consistently deposed that, upon reaching the residence of the applicant-accused no.5, they were made to stand in a line for approximately half an hour. Thereafter, the applicant-accused no.5, Chaitarbhai Damjibhai Vasava (an MLA), arrived and told them that they had acted improperly by removing the crops cultivated by the co-accused and that if they wish to continue working in the area, they should pay whatever amount the co-accused may demand by way of compensation for the alleged damage; failing which, they would have to face dire consequences and their lives would not be spared. It is further borne out from their evidence that, at that stage, the applicant-

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accused no.5 Chaitarbhai Damjibhai Vasava, caught hold of the complainant by the collar of his uniform and slapped him twice. Thereafter, he instructed the accused no.7 Rikeshbhai to bring a pistol from the house and fired a shot in the air, thereby putting the forest officials in fear of death and conveying a clear threat of dire consequences. Following the said incident, the forest officials left the place in their vehicle. The aforesaid facts, as deposed by the witnesses in their respective depositions and as stated by them in their statements recorded under Section 164 of the Cr.P.C., are otherwise relevant and admissible in evidence in terms of Section 80 of the Indian Evidence Act. The aforesaid version of the witnesses also finds corroboration from the documentary evidence referred to herein above.

(xiv) On the next day, i.e. on 31.10.2023, the present applicant-accused no.1 Jitendrabhai Nathabhai (P.A. to the present applicant-accused no.5 MLA Chaitarbhai Vasava) called the complainant at about 11:39 a.m. from his mobile no.8140600312 and directed him to pay the amount towards the damage allegedly caused to the co-accused; failing which, he would have to face serious consequences, and further directed him to come at the Peetha Ground, Dediapada. Thereafter, at

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about 12:25 p.m., he again called the complainant and directed him to come immediately since he is getting late. The aforesaid telephonic communications find corroboration from the C.D.R. produced at Exh.149. Thereafter, when the complainant (PW-1) Shivrajbhai Chaudhary and the Forester (PW-2) Umangbhai Vasava went to the Peetha Ground at Dediapada, the applicant-accused no.1 and other accused persons had demanded an amount of Rs.60,000=00 towards the compensation for the alleged damage. The evidence further indicates that the said amount was not available either with the two witnesses or in their respective bank accounts. This circumstance is borne out by their bank statements produced at Exhibits-35, 41, 76 and 81.

(xv) The complainant (PW-1) Shivrajbhai Chaudhary thereafter called the R.F.O. (PW-11) Bharatbhai Tadvī informing him that he did not have sufficient funds to make the payment as demanded by the accused and requesting him to transfer an amount of Rs.60,000=00 into his account. The details of the said call reflect from the C.D.R. at Exh.149.

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(xvi) Pursuant thereto, the R.F.O. (PW-11) Bharatbhai Tadvī transferred Rs.60,000=00 into the account of the complainant (PW-1) Shivrajbhai Chaudhary (Rs.40,000=00 from his account maintained with the State Bank of India and Rs.20,000=00 from his account maintained with the Bank of Baroda).

(xvii) Thereafter, the complainant (PW-1) Shivrajbhai Chaudhary and the Forester (PW-2) Umangbhai Vasava went to the ATM to withdraw the amount. As the withdrawal limit was upto Rs.40,000=00, the complainant withdrew Rs.40,000=00 and transferred the remaining Rs.20,000=00 into the bank account of the Forester (PW-2) Umangbhai Vasava, who thereafter withdrew the said amount from his bank account. Thus, after the entire amount of Rs.60,000=00 was withdrawn and assembled, the applicant-accused no.1 Jitendrabhai Vasava compelled them to handover the said amount to the accused no.6 Balirambhai Vasava.

(xviii) The aforesaid sequence of events finds complete and independent corroboration from the deposition of the Bank Manager (PW-8) Himatsing Yadav at Exh.71 and the deposition of the Bank Manager (PW-9) Jagdishkumar Vasava at Exh.79,

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when read in juxtaposition with the bank statements produced at Exhibits-35, 41, 76 and 81.

(xix) Learned senior advocate Mr.Syed, while relying upon the depositions of the complainant (PW-1) Shivrajbhai Chaudhary, the Forester (PW-2) Umangbhai Vasava and the R.F.O. (PW-11) Bharatbhai Tadv, has attempted to cast a doubt upon the prosecution's case by contending that, until the complainant Shivrajbhai Chaudhary and the Forester Umangbhai Vasava reached at the Peetha Ground, Dediapada, at about 2:15 p.m. on 31.10.2023, the amount to be paid towards compensation was not determined. Therefore, it is contended that, when the testimony of the R.F.O. Bharatbhai Tadv is considered, there appears material contradiction, inasmuch as, the R.F.O. Bharatbhai Tadv had spoken to the concerned persons over a phone at about 12:52 p.m. and thereafter transferred an amount of Rs.60,000=00. However, it is significant that, while stating that they had reached at the Peetha Ground at about 2:15 p.m., the complainant (PW-1) Shivraj Chaudhary, in his testimony at Exh.32, has used the expression "**approximately**". Having regard to the fact that the deposition of the star witnesses came to be recorded nearly three years after the occurrence, therefore,

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some variation in the estimation of time is but natural. Such a discrepancy, in the considered view of this Court, is neither material nor sufficient to cast a doubt upon, otherwise the consistent and corroborated version of the witnesses.

(xx) Thus, upon a prima facie consideration of the material on record, it emerges that the applicant-accused no.1 Jitendrabhai Vasava and the applicant-accused no.5 Chaitarbhai Vasava, acting in concert, threatened and assaulted the forest officials, namely, the complainant (PW-1) Shivrajbhai Chaudhary and the Forestor (PW-2) Umangbhai Vasava, thereby compelling them to arrange and pay an amount of Rs.60,000=00 as compensation to the accused towards the damages caused to them while removing the illegal encroachment made by them on the forest lands forming part of the Shoolpaneshwar Wildlife Sanctuary. Such a conduct, prima facie, falls squarely within the ambit of the offence of extortion as contemplated under Sections 383 and 386 of the Indian Penal Code.

(xxi) Even at the cost of repetition, it is necessary to emphasise that the lands from where the forest officials removed the unauthorised occupation and cultivation was forming part of the

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Shoolpaneshwar Wildlife Sanctuary. The accused had no legal right over such lands, and the action taken by the forest officials was in discharge of their official and lawful duties. Consequently, no lawful right of the accused was infringed by such action. Notwithstanding the said fact, the forest officials were abused, assaulted, threatened and were put in fear of dire consequences. Ultimately, an amount of Rs.60,000/- was thereafter obtained from them as compensation for the alleged damage. These circumstances, taken cumulatively, clearly disclose the commission of the offence of extortion.

(xxii) It is true that both the witnesses, i.e. the complainant (PW-1) Shivrajbhai Chaudhary and the Forester (PW-2) Umangbhai Vasava, have consistently stated that, after they were made to stand in a line and threatened, the applicant-accused no.5 Chaitarbhai Vasava, catching hold of the collar of the complainant's uniform, assaulted and slapped him twice, and after procuring a pistol from inside the house through the accused no.7 Rikeshbhai Vasava, he fired a shot in the air. It is an admitted position that the complaint came to be lodged after a delay of four days; however, no material or other evidence in connection with the alleged firing was found at the place of the

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occurrence. Even, upon a search conducted by the police, the pistol in question could not be recovered. In these circumstances, at this stage, it cannot be said, on a prima facie assessment of the material on record, that there is unimpeachable evidence sufficient to establish the commission of an offence under the Arms Act. That, however, does not obliterate the remaining part of the prosecution case. The material on record prima facie establishes that the forest officials were compelled to attend the residence of the applicant-accused no.5, the complainant was caught hold by the collar of his uniform and assaulted by the applicant-accused no.5, and they were compelled to arrange and pay the amount as was demanded by the co-accused; thereby committed the offence of extortion. At this stage, it is also necessary to bear in mind that the principle of “*falsus in uno, falsus in omnibus*” has no application in the courts in India. The mere absence of unimpeachable evidence regarding the use of the firearm, therefore, cannot, by itself, furnish a ground to doubt or discard the entire case of the prosecution, which otherwise stands prima facie established.

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(xxiii) As regards the applicant-accused no.7 Rikeshbhai Fulsing Vasava, his role in the offence appears to be distinctly limited and peripheral. His role, as emerging from the material on record, is confined to having brought the weapon from inside the house and handed it over to the applicant-accused no.5 Chaitarbhai Vasava, pursuant to his direction. In the circumstances, having regard to the fact that the sentence of the other accused persons, having played comparatively minor role, has already been suspended and they have been enlarged on bail, the applicant-accused no.7 also appears to be entitled to the benefit of parity.

CONDUCT OF THE ACCUSED :

55. In the present case, it is also necessary to take into consideration the conduct of the accused, as reflected from the statement and notes referred to in paragraph 47 herein above.

56. A perusal of the aforesaid statement and notes makes it abundantly clear that, in all, 22 serious offences have been registered against the applicant-accused no.5 Chaitarbhai Damjibhai Vasava, out of which, in 16 cases, while enlarging

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him on bail, the trial court as well as the High Court have imposed specific conditions requiring him not to misuse the liberty granted to him and not to involve himself in any further offence. Notwithstanding such express conditions, the accused appears to have continued to indulge himself into further criminal activities, thereby demonstrating a complete disregard to the orders passed by the trial court and the High Court.

57. The applicant-accused no.1 Jitendrabhai Nathalal Vasava and the applicant-accused no.5 Chaitarbhai Damjibhai Vasava, were previously prosecuted in connection with Part-A CR. No.11823004210827 of 2021 registered with the Dediapada Police Station, for the offences punishable under Sections 397, 504 and 506(2) of the Indian Penal Code and Section 135 of the Gujarat Police Act. In the said case, both the accused were held guilty of assaulting the complainant and the witnesses of that case and were accordingly convicted and sentenced by the learned Sessions Judge, Rajpipla, *vide* judgment and order dated 23.05.2023 passed in Sessions Case No. 33 of 2022. However, in lieu of the sentence, they were extended the benefit of probation under Section 360 of the Code, subject to furnishing a bond of Rs.20,000=00 for maintaining a good conduct for a period of two

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years, and were accordingly released on probation. Significantly, during the subsistence of the very probation period, the applicant-accused no.5 Chaitarbhai Damjibhai Vasava, indulged himself into seven further offences, including the present offence. The fact that the present offence has been committed by the applicant-accused no.5 during the subsistence of the probation period when he is under an express obligation to maintain a good conduct, is a circumstance which cannot be brushed aside while considering the present application.

58. It is also significant to note that the present offence came to be committed by both the applicant-accused nos.1 and 5 while they were on probation for a period of two years pursuant to their conviction and sentence recorded by the learned Sessions Judge, Rajpipla, *vide* judgment and order dated 23.05.2023 passed in Sessions Case No.33 of 2022.

59. It is further significant to note that, even in the present case, while enlarging the applicant-accused no.5 Chaitarbhai Damjibhai Vasava on bail, a Coordinate Bench of this Court had imposed an express condition that he shall not involve himself into any criminal activity, in future. Notwithstanding such

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specific conditions, the applicant-accused no.5 has indulged himself into nine other offences even before his conviction in the present case.

60. It is further borne out from the record that, out of all the offences registered against the applicant-accused no.5 Chaitarbhai Damjibhai Vasava, ten offences have been committed during his tenure as a Member of the Legislative Assembly.

61. It is also significant to note that, even during the pendency of the trial in the present case, as many as, three offences have been registered against the applicant-accused no.5 Chaitarbhai Damjibhai Vasava on 27.04.2026. The said offences arose out of an incident, where the kith & keen of the victims, who had approached the management of the Metropolitan Company regarding compensation in respect of the victims who had died in a blast at the said Company, were allegedly threatened and physically assaulted by the applicant-accused no.5. In one of the cases, a serious allegation was made against the applicant-accused no.5 that he slapped the complainant, namely, Roshanbhai Vasava, which resulted in a perforated eardrum.

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Consequently, in connection with the said incident, three different persons are stated to have lodged complaints against the applicant-accused no.5 Chaitarbhai Damjibhai Vasava.

62. Mr.Syed has submitted that the three offences referred to at Serial Nos.20, 21 and 22 in the statement arose out of one and the same incident, and that by filing separate complaints lodged through three different persons, three offences were registered to project an exaggerated impression of the seriousness of the matter. Even, assuming the aforesaid submission of Mr.Syed to be correct, the fact remains that during the pendency of the trial of the present offence, the accused no.5 Chaitarbhai Damjibhai Vasava came to be involved in yet another offence. The said offence arose from an incident, wherein, he had a scuffle with persons who had come to meet the management of the Metropolitan Company in connection with the compensation for the victims who had died in a blast at the said company. During the incident, the present applicant-accused no.5 slapped one of the kith and keen of the victims, causing him a serious injury resulting in perforation of his eardrum, therefore, an offence was registered in respect of the said incident.

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63. The aforesaid conduct of the applicant-accused no.5 Chaitarbhai Vasava, prima facie, reflects his disregard for law and the orders passed by the competent courts. It further indicates, at least prima facie, his tendency to respond to opposition or criticism with physical assault and violence, thereby creating an atmosphere of fear. Such conduct, when viewed against the backdrop of the evidence on record, is not befitting a sitting Member of the Legislative Assembly who represents a law-making institution.

64. Thus, upon a conjoint reading of the entire material placed on record and the impugned judgment of the trial court, this Court finds that the evidence against the applicants-accused nos.1 and 5 with regard to the alleged violation of the provisions of the Arms Act, at this stage, on a prima facie scrutiny, may not be sufficient, but the material on record prima facie establishes their involvement in the other offences. The evidence indicates that the applicants-accused nos.1 and 5, acting in concert and being aggrieved by the lawful action undertaken by the forest officials in removing the illegal encroachment and unauthorised cultivation carried out by the co-accused on the forest lands forming part of the Shoolpaneshwar Wild Life Sanctuary,

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threatened the forest officials that if they wish to continue working in the area, they would have to pay whatever amount demanded by the co-accused as compensation. The material further prima facie indicates that the complainant was assaulted by the applicant-accused no.5 by catching hold of the collar of his uniform, and on the next day, the forest officials were placed under fear and were compelled to pay Rs.60,000=00 by way of extortion.

65. Upon such prima facie assessment of the materials, the findings recorded by the trial court holding the applicants-accused nos.1 and 5 guilty for the offences of extortion, wrongful restraint of public servants in the discharge of their official duties, assault & causing hurt and criminal intimidation by threatening them to face with dire consequences, cannot be said to be perverted or suffered from any apparent or gross errors or infirmities. The conclusions reached by the trial court are supported by materials available on record and do not disclose any patent infirmity warranting interference at this stage of considering the applications for suspension of sentence.

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66. Having regard to the principles laid down by the Supreme Court in the case of **Bhupataji Sartajji Jabraji Thakor** (*supra*) and **Omprakash Sahni** (*supra*), as well as, considering the peculiar facts and circumstances of the present case, this Court finds no merit in the applications preferred by the applicant-accused nos.1 and 5.

67. At this stage, it bears reiteration that holding a high public office does not confer any immunity from the operation of law. Such office can neither be regarded as an authority to indulge in criminal activities nor be utilised as a shield against the legal consequences flowing therefrom. The applicant-accused no.5 Chaitarbhair Damjibhai Vasava is a sitting Member of the Legislative Assembly and represents the law-making institution. Having regard to the offences registered against him and the material indicating that, even after being enlarged on bail subject to an express condition against misuse of the liberty so granted, he openly breached such conditions, more particularly, when he was on probation for a period of two years, granted by the trial court in another offence. Furthermore, he also assaulted individuals and continued to involve himself in further offences for the benefit of his supporters, such conduct, therefore, prima

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facie, cannot be regarded as befitting the office held by him. In a case where such circumstances exist, an order suspending the sentence and enlarging the accused on bail may create a perception in the society that persons in power are beyond the reach of law and may commit offences without fear of legal consequences. The court cannot remain oblivious to such a consequence. The exercise of judicial discretion must necessarily be governed by the need to preserve public confidence in the administration of justice and the rule of law.

68. It is well said that ***“Law is the king of kings, nothing is mightier than law, by whose aid, even the weak may prevail over the strong”***. Bearing in mind the aforesaid, the applicant-accused no.5, being a sitting Member of the Legislative Assembly, ought to have guided the aggrieved person to seek lawful remedies. Instead, as the materials on record prima facie reflect, he resorted to intimidation and coerced government employees into arranging and paying compensation to individuals who had encroached upon forest lands and undertaken unauthorised cultivation. Such conduct of the applicant-accused no.5, who is a sitting Member of the

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Legislative Assembly, raises questions as to the propriety in the context of the public office he holds.

69. It is pertinent to note that the complainants as well as the victims in all the cases registered against the accused are themselves the members of the tribal community. Therefore, it cannot be said that the alleged offences were committed by the accused for the welfare and interest of the marginalized tribal community.

70. Having regard to the facts and circumstances of the case, as well as, considering the limited role attributed to the applicant-accused no.7 and on the principle of parity, he deserves to be extended the same benefit as granted to the similarly situated accused persons, therefore, this Court is inclined to allow his application and to suspend the sentence imposed upon him by the trial court, during the pendency and final hearing of the Criminal Appeal No.1746 of 2026.

71. The Criminal Miscellaneous Application No.1 of 2026 in Criminal Appeal No.1746 of 2026 for suspension of sentence preferred by the applicant-accused no.7 is hereby allowed. The

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applicant-accused no.7, namely, Rikeshbhai Fulsingbhai Vasava, shall be released on bail by executing a fresh bond of Rs.15,000=00 (Rupees Fifteen Thousand) with one surety of the like amount to the satisfaction of the trial court, on the following conditions, that :

- (a) he shall not take undue advantage of the liberty or misuse the liberty;
- (b) he shall not indulge himself into any criminal activity;
- (c) he shall maintain law and order;
- (d) he shall not leave India without the prior permission of this Court;
- (e) he shall furnish the present address of his residence to the court concerned at the time of execution of the bond and shall not change the residence without the prior permission of this Court;
- (f) he shall proceed with the Criminal Appeal as and when it may be listed.

72. Rule made absolute qua the applicant-accused no.7, namely, Rikeshbhai Fulsingbhai Vasava. Direct service is permitted.

73. Prima facie, this Court does not find any manifest illegality or palpable error in the judgment of the trial court. The view taken by the trial court does not suffer from any manifest error

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apparent on the face of the record and proceedings qua the present applicants-accused nos.1 and 5, namely, Jitendrabhai Nathalal Vasava and Chaitarbhai Damjibhai Vasava.

74. In view of the above, the Criminal Miscellaneous Application (for suspension of sentence) Nos.1 of 2026 in Criminal Appeals Nos.1720 of 2026 and 1751 of 2026, being devoid of merits, stand dismissed. Rule discharged. Direct service is permitted.

75. Considering the ratio laid down by the Supreme Court in the case of **Bhagwan Rama Shinde Gosai** (*supra*), as well as, the assertion made by the learned Special Public Prosecutor Mr.Mitesh Amin that since the applicant-accused no.5 is a sitting Member of the Legislative Assembly and the State is ready and willing to cooperate fully for the expeditious hearing and final disposal of the appeals preferred by the accused, the registry is, therefore, directed to immediately call for the records and proceedings from the concerned trial court and thereafter list the appeals for final hearing at the earliest, without fail.

(VIMAL K. VYAS, J.)

/MOINUDDIN