

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 13853 of 2026
FOR APPROVAL AND SIGNATURE:
HONOURABLE MRS. JUSTICE M. K. THAKKER

Approved for Reporting	Yes	No
	yes	

RAVI NAIR
Versus
STATE OF GUJARAT & ANR.

Appearance:

MR PRATIKKUMAR B RUPALA(10230) for the Applicant(s) No. 1
MR ABHIK CHIMNI for the Applicant No.1
RONITH JOY(9560) for the Applicant(s) No. 1
LD.SR.ADV. MR. MITESH AMIN WITH MR B S RAJU WITH DHANESH R
PATEL(8226) for the Respondent(s) No. 2
LD.PUBLIC PROSECUTOR MR. HARDIK DAVE WITH MS MONALI BHATT,
ADDL.PUBLIC PROSECUTOR for the Respondent(s) No. 1

CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 30/09/2026

JUDGMENT

- 1 The present petition is filed under Articles 226 and 227 of the Constitution of India read with Section 528 of the BNS as well as Section 389 of the Code of Criminal Procedure, challenging the order dated 17.09.2026 passed below Exhibit-18 by the learned Sessions Judge, Gandhinagar, in Criminal Appeal No.61 of 2026, whereby the application filed by the petitioner seeking cancellation of the Non-Bailable Warrant issued against him came to be rejected and the learned Appellate Court directed that the petitioner be taken into custody, a jail warrant be prepared and the petitioner be sent to jail. It is also

prayed to restore the order dated 09.03.2026 passed below Exhibit-4, whereby the order of conviction came to be suspended and the petitioner came to be released on bail.

1.1 Initially, a request was made to circulate the matter on 19.09.2026, i.e. on a working Saturday, which was a holiday for the working Courts, stating that, as the petitioner had been taken into custody, the matter may be circulated immediately. Pursuant to the order passed by the Hon'ble the Chief Justice, the matter came to be circulated and, after hearing the learned advocate for the petitioner after 06:00 p.m., this Court issued Notice, making it returnable on 21.09.2026, i.e. the next working day.

1.2 On 21.09.2026, learned advocate Mr. Chimni appeared through video conferencing, whereas learned senior advocate Mr. Mitesh Amin, along with learned advocates Mr. Raju and Mr. Dhanesh Patel, requested time on the ground that they had instructions to appear and desired to file a reply placing on record certain legal as well as factual aspects. Learned advocate Mr. Chimni for the petitioner requested interim relief; however, in view of the request made by the learned advocates appearing for the respective parties, the

matter was kept on 23.09.2026. Thereafter, on 23.09.2026, the matter was heard at length and was kept today for dictation of the judgment.

2 Heard learned advocate Mr.Abhik Chimni with learned advocate Mr. Ronith Joy for the petitioner, learned senior advocate Mr. Mitesh Amin with Mr. B.S.Raju with Mr. Dhanesh Patel, learned Public Prosecutor Mr. Hardik Dave with Ms. Monali Bhat learned Addl. Public Prosecutor.

3 Learned advocate Mr. Chimni submitted that the petitioner was convicted by the learned Judicial Magistrate First Class, Mansa, vide judgment and order dated 10.02.2026, under Section 499 read with Section 500 of the Indian Penal Code and was ordered to undergo simple imprisonment for a term of one year and to pay a fine of Rs.5,000/-. Being aggrieved by the said judgment and order of conviction, Criminal Appeal No.61 of 2026 came to be filed along with an application for suspension of sentence below Exhibit-4. The learned Court was pleased to allow the said application vide order dated 09.03.2026, subject to the condition of furnishing a bond in the sum of Rs.20,000/- with a personal bond of like amount. It is further submitted that, while passing the said order, the learned Court had

expressly recorded that the petitioner had regularly attended the proceedings before the learned Trial Court and, therefore, the appeal was fixed for hearing. It is submitted that the petitioner is not a resident of the State of Gujarat and ordinarily resides in the State of Kerala. Therefore, his personal attendance on each and every date of hearing of the appeal entails substantial travelling expenses and causes considerable hardship to the petitioner. It is further submitted that the petitioner was duly represented before the learned Appellate Court through his advocate on every date of hearing and, on account of the petitioner not remaining personally present, the hearing of the appeal was never delayed. It is further submitted that, on 20.07.2026, an application seeking exemption from personal appearance came to be filed by the learned advocate for the petitioner below Exhibit-8. Similar applications seeking exemption from personal appearance were also filed on 26.05.2026, 09.07.2026 and 22.07.2026.

3.1 It is submitted by the learned advocate Mr.Chimni that, during the aforesaid period, an FIR came to be registered at the DCB Police Station by the complainant on 29.05.2026 for the offences punishable under Sections 318(4), 336(2), 336(4) and 304(2) of the Bharatiya Nyaya Sanhita, 2023.

In response to the notice issued under Section 35(3) of the BNS, the petitioner appeared before the concerned Police Station and cooperated with the investigation. It is submitted that, thereafter, an application was filed by the petitioner seeking exemption from personal appearance on 03.09.2026 on the ground that, as an FIR had been registered by the DCB Police Station against the petitioner and a search had been carried out at the residence of the petitioner, during which his laptop, mobile phone and iPad were seized, the petitioner was in the process of filing an application for anticipatory bail and, therefore, could not remain present on the date fixed for hearing of the appeal. The said application came to be rejected by the learned Principal Sessions Judge, Gandhinagar, on 03.09.2026 and a Non-Bailable Warrant came to be issued against the present petitioner. It is submitted that the petitioner thereafter approached the Kerala High Court seeking transit bail, which came to be allowed on 08.09.2026. It is submitted that thereafter the petitioner appeared before the learned Appellate Court and filed an application for cancellation of the Non-Bailable Warrant below Exhibit-18. However, the said application came to be rejected and the petitioner was ordered to be

taken into custody.

3.2 It is submitted by the learned advocate Mr.Chimni that the Apex Court, in the case of **Inder Mohan Goswami and Another v. State of Uttaranchal and Others**, reported in **(2007) 12 SCC 1**, has held that a Non-Bailable Warrant should be issued to bring a person before the Court only when summons or bailable warrants would not achieve the desired result, meaning thereby that there must be reasonable grounds to believe that the person will not voluntarily appear, or that the authorities are unable to find the person to serve him with summons, or that the person may cause harm to someone if not immediately taken into custody. It is submitted that, as laid down in the aforesaid decision, in the first instance, the Court ought to issue summons along with a copy of the complaint; if the person avoids the summons, a bailable warrant may be issued; and, only in the third instance, when the Court is fully satisfied that the accused is intentionally avoiding the proceedings, a Non-Bailable Warrant ought to be issued.

3.3 It is submitted by the learned advocate Mr. Chimni that the aforesaid judgment still holds the

field and that the Court is required to exercise caution while issuing a Non-Bailable Warrant, particularly having regard to the paramount importance of personal liberty. It is submitted that, in the present case, arising out of a private complaint, the Non-Bailable Warrant could not have been issued straightway on the very day on which the application seeking exemption from personal appearance was rejected. The learned Court could have called upon the surety who had stood surety for the petitioner at the time of suspension of sentence. However, without resorting to such remedy, the learned Court straightway proceeded to issue the Non-Bailable Warrant. It is submitted that the power to issue a warrant, being discretionary in nature, is required to be exercised judicially and with extreme care and caution. The Court is required to balance personal liberty and societal interest before issuing such warrant and, as a general rule, unless an accused is charged with the commission of a heinous crime and there is an apprehension that he is likely to tamper with or destroy the evidence or evade the process of law, issuance of Non-Bailable Warrants ought to be avoided.

3.4 It is submitted by the learned advocate Mr.

Chimni that the petitioner stands convicted for an offence which is non-cognizable and bailable, triable as a summons case, and has been sentenced to imprisonment for a period of one year. Therefore, there could be no question of the petitioner tampering with or destroying the evidence, as the trial itself had already concluded. Nor can the offence be termed as a heinous crime, which is one of the relevant considerations for issuance of a Non-Bailable Warrant. It is submitted that the petitioner, of his own volition, after obtaining transit bail in connection with the offence registered by the DCB Police Station, Ahmedabad, appeared before the learned Appellate Court on 17.09.2026 and filed a pursis below Exhibit-18 regarding his presence and requested cancellation of the Non-Bailable Warrant. However, instead of allowing the application for cancellation of the Non-Bailable Warrant, the petitioner was ordered to be sent to judicial custody. Therefore, the impugned order is vitiated by a gross breach of the principles of natural justice and is without jurisdiction.

3.5 It is further submitted that the impugned order does not even purport to revoke Condition No.5 imposed under the order below Exhibit-4, nor does

it record any finding that any of the conditions imposed therein had been breached. It is submitted that bail once granted can be cancelled only upon the existence of cogent and overwhelming supervening circumstances, such as misuse of liberty by the accused, an attempt to tamper with the evidence, threatening or influencing witnesses, commission of similar offences or absconding. The learned Court could not have cancelled the liberty granted to the petitioner mechanically or as a measure of punishment for non-appearance and, therefore, the impugned order is also bad in law.

3.6 It is submitted that, while passing the order below Exhibit-4, the learned Court itself had recorded that the petitioner had regularly attended the proceedings before the learned Trial Court. In view of the said circumstance, the subsequent observation of the learned Court that the petitioner was likely to abscond or evade the process of law is contrary to the record. It is submitted that the impugned order proceeds upon a serious misappreciation of the true reasons for the petitioner's non-appearance. Throughout the pendency of the appeal, the learned Court had accepted applications seeking exemption from

personal appearance. In such circumstances, the sudden issuance of a Non-Bailable Warrant on 03.09.2026, without any prior notice or indication that the exemption would no longer be granted, constituted a departure from the course previously followed by the learned Court, which the petitioner could not reasonably have anticipated. The impugned order, therefore, also fails to meet the requirement of fairness.

3.7 It is further submitted by the learned advocate Mr. Chimni that, in the order dated 03.09.2026, the learned Court observed that if the petitioner was absconding in order to avoid arrest in any offence, the assistance of the Court could not be sought. It is submitted that such observation proceeds upon an assumption of absconding for which there was no material whatsoever on record. On the contrary, the petitioner had responded to the notice issued by the DCB Police Station, Ahmedabad, and was pursuing the lawful remedy before the Kerala High Court.

3.8 It is submitted that by the learned advocate Mr. Chimni, when the petitioner voluntarily surrendered even prior to the date fixed in the order issuing the Non-Bailable Warrant, the rejection of the application seeking cancellation of

the Non-Bailable Warrant and the consequential direction to commit him to judicial custody on the very same day, despite his voluntary appearance, results in a failure of justice. It is submitted that the petitioner's right to approach the appellate forum has thereby been rendered wholly illusory and nugatory. The impugned order, therefore, deserves to be set aside, as the same results in an unwarranted infringement of the personal liberty guaranteed to the petitioner under Article 21 of the Constitution of India.

- 4 Relying on the following decisions of the Apex Court it is submitted that the present petition is required to be allowed and the order below Exhibit 40 is required to be restored.

(1) Inder Mohan Goswami (supra)

(2) Raghuwansh Dewanchand Bhasin vs. State of Maharashtra, reported in **(2012) 9 SCC 791**

(3) Dolat Ram vs. State of Haryana, reported in **(1995) 1 SCC 349**

(4) Aslam Babalal Desai vs. State of Maharashtra, reported in **(1992) 4 SCC 272**

(5) Kashmira Singh vs. State of Punjab, reported in **(1977) 4 SCC 291**

(6) Bhagwan Rama Shinde Gosai vs. State of Gujarat, reported in **(1999) 4 SCC 421**

5 Per contra, the petition is vehemently opposed by learned senior advocate Mr. Amin, assisted by learned advocate Mr. Raju, who submitted that the petition deserves to be dismissed on the ground of suppression of material facts. It is submitted that, while seeking discretionary relief from this Court, the petitioner is expected to approach the Court with clean hands and place all relevant and material facts, as well as the proceedings undertaken before other Courts, before the Court. It is submitted that, on 03.09.2026, when the Non-Bailable Warrant came to be issued by the learned Court, the petitioner, while seeking transit bail before the Kerala High Court, which came to be granted on 08.09.2026, did not bring the issuance of the Non-Bailable Warrant to the notice of the Kerala High Court. Thereafter, the petitioner approached this Court asserting that he had never absconded or attempted to abscond.

5.1 It is submitted by the learned senior advocate Mr. Amin that the petitioner was required to place all the relevant proceedings before this Court when he sought urgent circulation of the matter on a holiday, i.e. on 19.09.2026. It is submitted that, prior to the hearing on the said date, the petitioner had also approached the learned Trial Court by filing an application for bail being Criminal Misc.

Application No.1569 of 2026 however, the petitioner selectively chose not to disclose the said fact before this Court, despite the fact that the relief sought in the said application and the relief sought in the present petition were substantially the same. It is further submitted that, when the present petition was adjourned on 21.09.2026, the petitioner proceeded to press for hearing of the said bail application before the learned Sessions Court on the very same day. Even at that stage, the fact regarding the pendency of the bail application and the hearing fixed therein on the same day was not disclosed before this Court. It is submitted that the learned Court, after hearing the said bail application, kept the matter for orders and, by withholding the aforesaid material fact from this Court, the petitioner has suppressed a material aspect of the proceedings. It is therefore submitted that the petitioner has himself created a situation whereby he would not be entitled to any discretionary relief from this Court.

5.2 It is further submitted by the learned senior advocate Mr. Amin that, apart from the aforesaid aspect, the petition deserves to be dismissed even on merits, having regard to the averments made therein. It is submitted that it is an admitted

position that the petitioner was not present before the learned Appellate Court on 20.04.2026, 26.05.2026, 09.07.2026, 22.07.2026 and 03.09.2026 and had filed applications seeking exemption from personal appearance. It is submitted that, in the said applications seeking exemption, no specific reason was stated for the petitioner's non-appearance. However, subsequently, the petitioner has attempted to project illness as the reason for his absence. Even the medical certificate relied upon, which is dated 15.06.2026, does not support the petitioner's absence on all the dates on which applications seeking exemption were filed.

5.3 It is submitted that, on 03.09.2026, the petitioner's own application seeking exemption discloses that his absence was sought to be justified primarily on account of the pendency of proceedings seeking transit anticipatory bail before the Kerala High Court in connection with a separate criminal case. It is also stated therein that, owing to the seizure of electronic devices and alleged surveillance, the petitioner could not appear before the learned Appellate Court. However, none of the circumstances stated by the petitioner prevented him from appearing before

the learned Appellate Court at Gandhinagar. It is submitted that, even after obtaining transit bail from the Kerala High Court, the said circumstance, by itself, cannot undo or efface the circumstances which had led to the issuance of the Non-Bailable Warrant.

5.4 It is further submitted that the conduct of the petitioner is also required to be taken into consideration, particularly in the context of the statement recorded at the conclusion of the evidence at the stage of trial. It is submitted that the petitioner had taken a stand that the documents on which he sought to rely would be produced at the stage of final arguments; however, no such documents were ever produced during the course of the trial. During the pendency of the appeal, the petitioner again sought to produce additional evidence by filing an application below Exhibit-11 on 26.05.2026, which came to be rejected by the learned Appellate Court on 22.07.2026. The said order has remained unchallenged till date. It is submitted that the aforesaid conduct, when considered along with the present application and the repeated non-appearance of the petitioner, clearly suggests that the petitioner intended to prolong the proceedings.

Merely because suspension of sentence and bail had been granted, it cannot be contended that the learned Court was precluded from taking into consideration the subsequent conduct of the petitioner, particularly when he sought exemption from personal appearance on every date of hearing and thereby attempted to prolong the hearing of the appeal.

5.5 It is further submitted that, at the time of suspension of sentence, while passing the order below Exhibit-4, there was a specific condition requiring the petitioner to remain present during the proceedings, which was not complied with. It is submitted that Condition No.4, requiring the petitioner to furnish a fresh address and not to change his residence or mobile number without prior permission of the Court, was also not complied with. It is submitted that, from the cause title of the memorandum of appeal, the address of the petitioner was initially shown as being in Delhi, which was subsequently changed to Kerala, as is evident from the petitioner's own averments made in paragraph 3.6 of the present petition.

5.6 So far as the reliance placed upon the judgment of the Apex Court in **Inder Mohan Goswami (supra)**, is concerned, it is submitted that the said

judgment cannot be applied in isolation, without considering the facts and circumstances of the present case. It is submitted that the conduct of the present petitioner, when considered in the backdrop of the overall facts and circumstances, takes the case of the petitioner outside the general principles laid down by the Apex Court governing the issuance of Non-Bailable Warrants. It is, therefore, submitted that, considering the overall circumstances and conduct of the petitioner, the present petition deserves to be dismissed.

- 6 Having considered the submissions advanced by the learned advocates appearing for the respective parties, the moot question that arises for consideration before this Court is whether, in the facts and circumstances of the present case, the impugned order passed by the learned Sessions Court rejecting the application filed by the petitioner seeking cancellation of the Non-Bailable Warrant and directing that he be taken into judicial custody calls for any interference by this Court at this stage.
- 7 As noted herein above, initially, the matter was heard on the holiday, i.e. on 19.09.2026, on the ground of urgency, as it was submitted that the petitioner had been taken into custody pursuant to rejection of his application seeking cancellation of the Non-Bailable

Warrant. The matter was accordingly heard on the said day after 06:00 p.m. From the averments made in the memo of the petition, particularly the disclosure made by the petitioner in paragraph 6 thereof, the following emerges:

“6.The Petitioner submits that save and except Special Criminal Application No. 9270 of 2026 preferred by the Petitioner before this Hon'ble Court, which pertained to a different subject matter and which came to be disposed of on merits, the Petitioner has not filed any other Petition either in this Hon'ble High Court or in the Hon'ble Supreme Court of India or before any other court on the subject matter of the present Petition. The Petitioner further states that the challenge to the order dated 22.07.2026 passed below Exhibit-11 in Criminal Appeal No. 61 of 2026 has not, as on the date of the present Petition, been preferred, for the reasons set out herein above.”

8 On that day, i.e. on 19.09.2026, when the matter was heard by this Court, learned advocate for the petitioner pressed for interim relief however, after issuing Notice, this Court kept the matter on the next working day. Even on the said day, though the petitioner appeared, the pendency of the bail application, which had been filed on the very same day on which the present petition was filed, was not disclosed before this Court. It is contended by learned advocate for the petitioner that there was no relevance in disclosing the said fact, as the said application was filed seeking bail, whereas the

present petition has been filed challenging the impugned order whereby the application seeking cancellation of the Non-Bailable Warrant came to be rejected, pursuant to which the petitioner was taken into custody.

9 This Court has referred the prayer made in the present petition as well as prayer made in the application for bail which read as under:

**Prayers made in Special Criminal Application
No.13853/2026**

“7...

A. YOUR LORDSHIPS may be pleased to admit and allow the present petition;

B. YOUR LORDSHIPS may be pleased to quash and set aside the order dated 17.09.2026 passed below Exhibit-18 by the learned Sessions Judge, Gandhinagar in Criminal Appeal No. 61 of 2026 (Annexed at Annexure - A), including in particular the directions contained therein that the Petitioner-appellant be taken into custody and that a jail warrant be prepared and the Petitioner be sent to jail;

C. YOUR LORDSHIPS may be pleased to quash and set aside the order dated 3.09.2026 passed below Exhibit-15 by the learned Sessions Judge, Gandhinagar in Criminal Appeal No. 61 of 2026 (Annexed at Annexure - B), including in particular the directions contained therein that the Petitioner-appellant be taken into custody and that a jail warrant be prepared and the Petitioner be sent to jail;

D. YOUR LORDSHIPS may be pleased to direct that the non-bailable warrant issued against the Petitioner stands cancelled, and that the order dated 09.03.2026 passed below Exhibit-4 in Criminal Appeal No. 61 of 2026 (annexed at Annexure H), whereby the order of conviction came to be suspended and the Petitioner came to be released on bail, stands restored, and consequently to direct that the Petitioner be released forthwith on such terms and conditions as this Hon'ble Court may deem fit and proper;

E. Pending admission, hearing and final disposal of the present petition, Your Lordships may be pleased to stay the operation, implementation and execution of the impugned order dated 17.09.2026 passed below Exhibit-18 by the learned Sessions Judge, Gandhinagar in Criminal Appeal No. 61 of 2026, and to direct that the Petitioner be released on bail on such terms and conditions as this Hon'ble Court may deem fit and proper;

F. YOUR LORDSHIPS may grant ex-parte/ad-interim relief in terms of Paragraph 7(E) hereinabove;

G. YOUR LORDSHIPS may pass any other and further relief/s as deemed fit and proper, may kindly be granted in the Interest of Justice:

H. The Petitioner is in judicial custody, and therefore an affidavit in support of the application may kindly be dispensed with by this Hon'ble Court;

**Prayers made in Criminal Misc. Application
No.1569/2026**

“a. Allow the present application and enlarge the Applicant on regular bail, or

b. Alternatively restore the benefit of suspension of

sentence granted vide order dated 09.03.2026 passed below Exh.4 in Criminal Appeal No. 61 of 2026, on such terms and conditions as this Hon'ble Court may deem fit to impose;

c. Pass any other order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice;”

10 On referring to the aforesaid prayers, it emerges that the consequential effect of quashing the impugned order would be to enlarge the petitioner on bail, and the prayer for restoration of the order passed below Exhibit-4 is common to both the proceedings. In that background, the declaration made on oath by the petitioner in paragraph 6 that he had not filed any other petition, either before this Court, the Hon'ble Supreme Court of India or any other Court, concerning the subject matter of the present petition, would amount to a false disclosure. In the opinion of this Court, such disclosure cannot be treated as a mere formal declaration. Before making any such declaration, a litigant is expected to exercise due care, sensitivity and responsibility in disclosing all material proceedings having a bearing upon the relief sought before the Court. Any declaration made on oath which is subsequently found to be false is a serious matter and may entail the petitioner in facing appropriate and serious consequences in accordance with law.

11 This Court has referred the decision of the Apex Court in the case of **K.D. Sharma v. SAIL**, reported in **2008 (12) SCC 481** wherein the Apex Court has held as under:

“34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.

35. The underlying object has been succinctly stated by Scrutton, L.J., in the leading case of *R. v. Kensington Income Tax Commrs.* [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] in the following words: (KB p. 514)

“... it has been for many years the rule of the court, and one which it is of the greatest importance to maintain, that when an applicant comes to the court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts—it says facts, not law. He must not misstate the law if he can help it—the court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts; and the penalty by which the court enforces that obligation is that if it finds out that the facts

have not been fully and fairly stated to it, the court will set aside any action which it has taken on the faith of the imperfect statement.”

(emphasis supplied)

36. A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the court, the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, “We will not listen to your application because of what you have done.” The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it.

37. In Kensington Income Tax Commrs. [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] Viscount Reading, C.J. observed: (KB pp. 495-96)

“... Where an ex parte application has been made to this Court for a rule nisi or other process, if the Court comes to the conclusion that the affidavit in support of the application was not candid and did not fairly state the facts, but stated them in such a way as to mislead the Court as to the true facts, the Court ought, for its own protection and to prevent an abuse of its process, to refuse to proceed any further with the examination of the merits. This is a power inherent in the Court, but one which should only be used in cases which bring conviction to the mind of the Court that it has been deceived. Before coming to this conclusion a careful examination will be made of the facts as they are

and as they have been stated in the applicant's affidavit, and everything will be heard that can be urged to influence the view of the Court when it reads the affidavit and knows the true facts. But if the result of this examination and hearing is to leave no doubt that the Court has been deceived, then it will refuse to hear anything further from the applicant in a proceeding which has only been set in motion by means of a misleading affidavit.”

(emphasis supplied)

38. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play “hide and seek” or to “pick and choose” the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because “the court knows law but not facts”.

39. If the primary object as highlighted in Kensington Income Tax Commrs. [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] is kept in mind, an applicant who does not come with candid facts and “clean breast” cannot hold a writ of the court with “soiled hands”. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable

and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.

40. Let us consider some important decisions on the point.

41. In *State of Haryana v. Karnal Distillery Co. Ltd.* [(1977) 2 SCC 431] almost an agreed order was passed by the Court that on expiry of the licence for manufacturing of liquor on 6-9-1976, the distillery would cease to manufacture liquor under the licence issued in its favour. Then, the Company filed a petition in the High Court for renewal of licence for manufacture of liquor for 1976-1977, and the Court granted stay of dispossession. In appeal, the Supreme Court set aside the order granting stay of dispossession on the ground that the petitioner Company in filing the petition in the High Court had misled it and started the proceedings for oblique and ulterior motive.

42. In *Vijay Kumar Kathuria v. State of Haryana* [(1983) 3 SCC 333] it was the case of the petitioners that the provisional admissions granted to them were not cancelled and they were continuing their studies as postgraduate students in Medical College on the relevant date. On the basis of that statement, they obtained an order of status quo. The Supreme Court ordered inquiry and the District Judge was asked to submit his report whether the provisional admissions granted to the

petitioners were continued till 1-10-1982 or were cancelled. The report revealed that to the knowledge of the petitioners their provisional admissions were cancelled long before 1-10-1982 and thus, the petitioners had made false representation to the Court and obtained a favourable order. Dismissing the petition, this Court observed: (SCC p. 334, para 1)

“1. ... But for the misrepresentation this Court would never have passed the said order. By reason of such conduct they have disintitiled themselves from getting any relief or assistance from this Court and the special leave petitions are liable to be dismissed.”

43. Deprecating the reprehensible conduct of the petitioners as well as of their counsel, the Court stated: (Vijay Kumar Kathuria case [(1983) 3 SCC 333] , SCC pp. 334-35, para 3)

“3. Before parting with the case, however, we cannot help observing that the conduct or behaviour of the two petitioners as well as their counsel (Dr. A.K. Kapoor who happens to be a medico-legal consultant practising in courts) is most reprehensible and deserves to be deprecated. The District Judge's report in that behalf is eloquent and most revealing as it points out how the two petitioners and their counsel (who also gave evidence in support of the petitioner's case before the District Judge) have indulged in telling lies and making reckless allegations of fabrication and manipulation of records against the college authorities and how in fact the boot is on their leg. It is a sad commentary on the scruples of these three young gentlemen who are on the threshold of their careers. In fact, at one stage we were inclined to refer the District Judge's report

both to the Medical Council as well as the Bar Council for appropriate action but we refrained from doing so as the petitioners' counsel both on behalf of his clients as well as on his own behalf tendered unqualified apology and sought mercy from the court. We, however, part with the case with a heavy heart expressing our strong disapproval of their conduct and behaviour....”

(emphasis supplied)

45. In *Agricultural & Processed Food Products v. Oswal Agro Furane* [(1996) 4 SCC 297] the petitioner filed a petition in the High Court of Punjab and Haryana which was pending. Suppressing that fact, it filed another petition in the High Court of Delhi and obtained an order in its favour. Observing that the petitioner was guilty of suppression of “very important fact”, this Court set aside the order of the High Court.

47. In *Union of India v. Muneesh Suneja* [(2001) 3 SCC 92 : 2001 SCC (Cri) 433] the detenu challenged an order of detention under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (Cofeposa) by filing a petition in the High Court of Delhi which was withdrawn. Then he filed a similar petition in the High Court of Punjab and Haryana wherein he did not disclose the fact as to filing of the earlier petition and withdrawal thereof and obtained relief. In an appeal by the Union of India against the order of the High Court, this Court observed that non-disclosure of the fact of filing a similar petition and withdrawal thereof was indeed fatal to the subsequent petition.

48. A special reference may be made to a decision of this Court in *All India State Bank Officers Federation v. Union of India* [1990 Supp SCC 336 : 1991 SCC (L&S)

429 : (1991) 16 ATC 454] . In that case, promotion policy of the Bank was challenged by the Federation by filing a petition in this Court under Article 32 of the Constitution. It was supported by an affidavit and the contents were affirmed by the President of the Federation to be true to his “personal knowledge”. It was stated: (SCC p. 337, para 2)

“2. ... [T]he petitioners have not filed any other similar writ petition in this Honourable Court or any other High Court.”

In the counter-affidavit filed on behalf of the Bank, however, it was asserted that the statement was “false”. The Federation had filed a writ petition in the High Court of Andhra Pradesh which was admitted but interim stay was refused. Another petition was also filed in the High Court of Karnataka. It was further pointed out that the promotion policy was implemented and 58 officers were promoted who were not made parties to the petition. In the affidavit-in-rejoinder, once again, the stand taken by the petitioner was sought to be justified. It was stated: “The deponent had no knowledge of the writ petition filed before the High Court of Andhra Pradesh, hence as soon as it came to his knowledge the same has been withdrawn. Secondly, the petitioners even today do not know the names of all such 58 candidates who have been promoted/favoured.” It was contended on behalf of the Bank that even that statement was false. Not only the petitioner Federation was aware of the names of all the 58 officers who had been promoted to the higher post, but they had been joined as party-respondents in the writ petition filed in the Karnataka High Court, seeking stay of promotion of those respondents. It was, therefore, submitted

that the petitioner had not come with clean hands and the petition should be dismissed on that ground alone.

49. “Strongly disapproving” the explanation put forth by the petitioner and describing the tactics adopted by the Federation as “abuse of process of court”, this Court observed: (All India State Bank Officers Federation case [1990 Supp SCC 336 : 1991 SCC (L&S) 429 : (1991) 16 ATC 454] , SCC pp. 340-41, paras 9 & 11)

“9. ... There is no doubt left in our minds that the petitioner has not only suppressed material facts in the petition but has also tried to abuse judicial process. ...

11. Apart from misstatements in the affidavits filed before this Court, the petitioner Federation has clearly resorted to tactics which can only be described as abuse of the process of court. The simultaneous filing of writ petitions in various High Courts on the same issue though purportedly on behalf of different associations of the officers of the Bank, is a practice which has to be discouraged. Sri Sachar and Sri Ramamurthi wished to pinpoint the necessity and importance of petitions being filed by different associations in order to discharge satisfactorily their responsibilities towards their respective members. We are not quite able to appreciate such necessity where there is no diversity but only a commonness of interest. All that they had to do was to join forces and demonstrate their unity by filing a petition in a single court. It seems the object here in filing different petitions in different courts was a totally different and not very

laudable one.”

(emphasis supplied)

51. Yet in another case in *Vijay Syal v. State of Punjab* [(2003) 9 SCC 401 : 2003 SCC (L&S) 1112] this Court stated: (SCC p. 420, para 24)

“24. In order to sustain and maintain the sanctity and solemnity of the proceedings in law courts it is necessary that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the court, when a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take the consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters is either mistaken or lightly taken instead of learning a proper lesson. Hence there is a compelling need to take a serious view in such matters to ensure expected purity and grace in the administration of justice.”

52. In the case on hand, the appellant has not come forward with all the facts. He has chosen to state the facts in the manner suited to him by giving an impression to the writ court that an instrumentality of State (SAIL) has not followed doctrine of natural justice and fundamental principles of fair procedure. This is not proper. Hence, on that ground alone, the appellant cannot claim equitable relief. But we have also

considered the merits of the case and even on merits, we are convinced that no case has been made out by him to interfere with the action of SAIL, or the order passed by the High Court.

12 Applying the aforesaid ratio to the facts of the present case, it emerges that the petitioner has not come before this Court with complete and correct facts. Instead, the petitioner has chosen to disclose the facts in a manner convenient to him. There is no candid disclosure, either in the memo of the present petition or at the time of hearing on 21.09.2026, with regard to the pendency of the regular bail application filed simultaneously with the present petition before the learned Trial Court. Such non-disclosure, particularly when the reliefs sought in both the proceedings have a direct bearing upon the liberty of the petitioner, cannot be treated as a mere omission or an insignificant procedural lapse.

13 This Court had permitted the petitioner to seek urgent hearing on 19.09.2026, i.e. on a working Saturday, which was a holiday for the working Courts, considering that the rejection of the application seeking cancellation of the Non-Bailable Warrant would have a serious bearing upon the personal liberty of the petitioner. Had the learned advocate for the petitioner disclosed the fact that, on the very day

when the matter was taken up on a holiday and interim relief was being pressed for even before issuance of Notice, regular bail proceedings were already pending before the learned Sessions Court, this Court could have awaited the outcome of the said regular bail proceedings. Not only this, even when the matter was taken up on the next working day, the aforesaid fact was not brought to the notice of this Court. Thereafter, when the matter came to be adjourned by this Court for two days, the petitioner proceeded to press for hearing of the regular bail application before the learned Sessions Court.

14The conduct of the learned advocate for the petitioner gives an impression that the petitioner has attempted to adopt a “hide and seek” approach and to pursue a “pick and choose” method before this Court. As held by the Apex Court in the aforesaid decisions, a party invoking the extraordinary jurisdiction of this Court is expected to approach the Court with utmost candour, frankness and openness. Such party is under an obligation to disclose all material facts, without any reservation, even if such facts are adverse to its case. Suppression, concealment or distortion of material facts would seriously impede the proper exercise of jurisdiction by the writ Court and would render the adjudicatory

process difficult. During the course of hearing, it was sought to be contended that no prejudice has been caused to this Court on account of non-disclosure of the aforesaid fact. Such a submission, however, cannot be accepted. It is not for the learned advocate or the party to decide whether a particular fact is material or immaterial for the adjudication of the proceedings, it is for the Court to determine the relevance and materiality of the facts placed before it. The duty of candour owed to the Court requires full and complete disclosure of all material facts. Suppression or concealment of a material fact is not an aspect of advocacy, rather, it amounts to an attempt at manipulation and misrepresentation of the judicial process, which can have no place in the exercise of equitable, extraordinary or prerogative jurisdiction.

15 This Court could have dismissed the matter on the ground of misrepresentation and suppression of material facts regarding the pendency of the proceedings before the learned Appellate Court. However, as the petitioner was in judicial custody, dispensing with the affidavit in support of the petition was permitted. In that background, instead of deciding the matter on the ground of suppression of material fact, as this Court intended to examine the

matter on the merits of the impugned order, in the light of the judgment relied upon by the learned advocate for the petitioner in the case of **Inder Mohan Goswami (supra)**, wherein the Apex Court has held that a non-bailable warrant should be issued to bring a person to the Court only when summons or bailable warrants would be unlikely to have the desired result, the matter was being considered on merits.

16 However, it is informed by the learned advocate for the petitioner that, after the matter was kept for dictation of judgment, there has been a subsequent development, whereby the learned Court has released the petitioner on regular bail while allowing the application under Section 483 of the BNSS, 2023, vide order dated 24.09.2026, and has also restored the order passed below Exhibit 4 in Criminal Appeal No.61 of 2026 dated 09.03.2026.

17 In view of the aforesaid subsequent development, this Court refrains from examining the legality and validity of the impugned proceedings on merits. Hence, the present petition stands disposed of accordingly.

(M. K. THAKKER,J)

M.M.MIRZA