



IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.1417-1418 OF 2022
(Arising out of SLP (CrI.) Nos.7413-7414 of 2022)

TEESTA ATUL SETALVAD

Appellant

VERSUS

STATE OF GUJARAT

Respondent

O R D E R

Leave granted.

These appeals challenge (a) the order dated 30.07.2022 passed by the Sessions Court¹, in Cr. Miscellaneous Application No.4617 of 2022; and, (b) the order dated 03.08.2022 passed by the High Court² in CrI. Miscellaneous Application No.14435 of 2022.

The appellant - a lady was arrested on 25.06.2022 and has since then been in custody in connection with crime registered pursuant to First Information Report being I-C.R. No.11191011220087 dated 25.06.2022, lodged with DCB Police Station, Ahmedabad in respect of offences punishable under Sections 468, 471, 194, 211, 218 read with Section 120-B of the Indian Penal Code, 1860.

The First Information Report made reference to various proceedings including the judgment and order dated 24.06.2022 passed by this Court in *Zakia Ahsan Jafri v. State of Gujarat & Anr.*, reported in 2022 (9) SCALE page 1.

1. City Civil & Sessions Court, Ahmedabad
2. High Court of Gujarat at Ahmedabad

After referring to various developments, the First Information Report stated as under:

"There is material in the final report submitted by the SIT which indicates that Teesta Setalvad had conjured concocted forged fabricated facts and documents and or evidence including fabrication of documents by persons who were prospective witnesses of the complainant. It is not only a case of fabrication of documents, but also of influencing and tutoring the witnesses and making them depose on pre typed affidavit, as has been noted in the judgment of the Hon'ble Gujarat High Court dated 11.07.2011 in Criminal Misc. Application No.1692 of 2011."

It is a matter of record that after her arrest, the appellant was remanded to the police custody for seven days and was interrogated every day by the concerned investigating machinery. Thereafter, the appellant was remanded to and continues to be in judicial custody.

An application for bail being Criminal Miscellaneous Application (Regular) No.4617 of 2022 was moved on behalf of the appellant seeking relief of bail. Similar application for bail was moved on behalf of co-accused Raman Pillai Bhaskaren Nair Sreekumar.

Both the applications were taken up for consideration together by the Sessions Court, which by its order dated 30.07.2022 rejected the submissions advanced on behalf of the concerned accused and dismissed both the applications.

The appellant then approached the High Court by filing Criminal Miscellaneous Application No.14435 of 2022 praying *inter alia* that the appellant be released on regular bail in connection with the aforesaid First Information Report and pending

consideration of said Miscellaneous Application by the High Court, she be enlarged on interim bail in the aforesaid crime.

By its order dated 03.08.2022, the High Court issued rule and made it returnable on 19.09.2022. The order recorded that the learned Assistant Public Prosecutor waived service of rule on behalf of the respondent State.

The present appeals seek to challenge both the orders, one passed by the Sessions Court and the Order passed by the High Court to the extent it did not grant interim relief, as prayed for.

While issuing notice vide its order dated 22.08.2022, this Court recorded the submissions of the learned counsel appearing for the appellant as under:

"It is submitted that the allegations in the F.I.R. are nothing but recitation of the proceedings which had culminated in the judgment of this Court and beyond such recitation nothing specific has been alleged against the petitioner."

After issuance of notice, affidavit in response has been filed on behalf of the State to which rejoinder affidavit has also been filed on behalf of the appellant.

In these appeals, we have heard Mr. Kapil Sibal, learned Senior Advocate for the appellant; Mr. Tushar Mehta, learned Solicitor General and Mr. S.V. Raju, learned Additional Solicitor General on behalf of the State.

According to Mr. Kapil Sibal:

- a. The facts narrated in the First Information Report are nothing but recitation of the proceedings which ended with the judgment and order dated 24.06.2022 passed by this Court.
- b. The offence alleged against the appellant is not even made out and as such, there is strong *prima facie* case in favour of the appellant.
- c. The appellant has been in custody for more than two months and at this stage, she is certainly entitled to the relief of interim bail during the pendency of the consideration of her substantive application by the High Court.

In response, Mr. Tushar Mehta, learned Solicitor General submits *inter alia*:

- a. The application preferred by the appellant seeking bail is presently pending consideration before the High Court and as such, the matter must be allowed to be considered by the High Court rather than entertaining the challenge at this stage before this Court.
- b. Since rule has been issued by the High Court, the entirety of the matter can be gone into by the High Court on the returnable date or on such date to which the matter may thereafter get adjourned.

- c. There is sufficient material, apart from whatever has been adverted to in the First Information Report, pointing towards the involvement of the appellant.
- d. Going by the law laid down by this Court in *Iqbal Singh Marwah & Anr. v. Meenakshi Marwah & Anr.*, reported in (2005) 4 SCC 370, the bar under Section 195 of the Code of Criminal Procedure, 1973 would arise only at the stage of cognizance.

We need not go into the rival contentions advanced by the learned counsel for the parties touching upon the merits of the matter. For the present purposes, in our considered view, following aspects of the matter, which emerge from the record, are of some significance.

- a. The appellant - a lady has been in custody since 25.06.2022.
- b. The offences alleged against her relate to the year 2002 and going by the assertions in the FIR pertain to documents which were sought to be presented and / or relied upon till the year 2012.
- c. Investigating machinery has had the advantage of custodial interrogation for a period of seven days whereafter judicial custody was ordered by the concerned Court.

We are alive to the fact that as argued by Mr. Tushar Mehta, learned Solicitor General, the matter is still pending consideration before the High Court. We are therefore not

considering whether the appellant be released on regular bail or not. That issue will be gone into by the High Court in the pending application.

We are presently considering the matter only from the standpoint whether during the pendency of such application, custody of the appellant can be insisted upon or whether she can be granted the relief of interim bail.

Having considered the circumstances on record, in our view, the High Court ought to have considered the prayer for release of the appellant on interim bail during the pendency of the matter.

The essential ingredients of the investigation including the custodial interrogation having been completed, the relief of interim bail till the matter was considered by the High Court was certainly made out.

We hasten to add that the relief of interim bail is granted to the appellant in the peculiar facts including the fact that the appellant happens to be a lady. This shall not be taken to be a reflection on merits and shall not be used by the other accused. As and when such occasion arises, the submissions on behalf of the concerned accused shall be considered purely on their own merits.

We, therefore, direct as under:

- a. The appellant shall be produced before the Sessions Court tomorrow i.e. on 03.09.2022 and the Sessions Court shall release the appellant on interim bail, subject to such conditions as the Sessions Court may deem appropriate to impose, to ensure the presence

and participation of the appellant in the pending proceedings.

It shall be open to the Sessions Court to grant the relief of interim bail on submission of cash security or bond rather than insisting upon local surety.

- b. The appellant shall surrender her Passport forthwith and the Passport which shall be kept in custody by the Sessions Court till the matter is considered by the High Court in Miscellaneous Criminal Application No.14435 of 2022.
- c. The appellant shall render complete cooperation in the pending investigation.

At the cost of repetition, we may observe that we have considered the matter from the standpoint of considering interim bail and we shall not be taken to have expressed any view touching upon the merits of the submissions advanced on behalf of the appellant. The pending applications before the High Court shall be considered by the High Court independently and uninfluenced by any of the observations made by this Court in the instant order.

The appeals are allowed to the extent indicated above.

.....CJI.
(Uday Umesh Lalit)

.....J.
(S. Ravindra Bhat)

.....J.
(Sudhanshu Dhulia)

New Delhi,
September 02, 2022

ITEM NO.301

COURT NO.1

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (CrI.) Nos.7413-7414/2022
(Arising out of impugned final judgment and order dated 03-08-2022
in CRMA No.14435/2022 passed by the High Court of Gujarat at
Ahmedabad and Order dated 30-07-2022 in CRMA No.4617/2022 passed by
the City Civil & Sessions Court, Ahmedabad)

TEESTA ATUL SETALVAD

Petitioner(s)

VERSUS

STATE OF GUJARAT

Respondent(s)

(FOR ADMISSION and I.R.; IA No.113811/2022 - FOR EXEMPTION FROM
FILING C/C OF THE IMPUGNED JUDGMENT; IA No.113812/2022 - FOR
EXEMPTION FROM FILING O.T.; IA No.116719/2022 - FOR PERMISSION TO
FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES; IA No.120197/2022 - FOR
EXEMPTION FROM FILING O.T.; and, IA No. 120194/2022 - FOR
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-09-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUDHANSHU DHULIA

Counsel for the Parties:

Mr. Kapil Sibal, Sr. Adv.
Mr. Mihir Desai, Sr. Adv.
Mr. Huzefa Ahmadi, Sr. Adv.
Ms. Aparna Bhat, AOR
Ms. Karishma Maria, Adv.
Mr. Nizam Pasha, Adv.
Mr. Adit Subramaniam Pujari, Adv.
Ms. Rupali Samuel, Adv.
Mr. Rishabh Parikh, Adv.
Ms. Aparajita Jamwal, Adv.

Mr. Tushar Mehta, SG
Mr. S.V. Raju, ASG
Mr. Kanu Agrawal, Adv.
Mr. Rajat Nair, Adv.
Ms. Swati Ghildiyal, Adv.
Mr. Madhav Sinhal, Adv.
Ms. Deepanwita Priyanka, AOR

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

Leave granted.

The criminal appeals are allowed, in terms of the Signed Order placed on the file.

Pending applications, if any, also stand disposed of.

**(MUKESH NASA)
AR-cum-PS**

**(VIRENDER SINGH)
BRANCH OFFICER**