

**IN THE CITY CIVIL & SESSIONS COURT,
AHMEDABAD.**

Criminal Misc.(Regular) Application No.4617 of 2022

Applicant: Teesta Atul Setalvad
Age : 60 years,
Residing at : Nirant, Juhu Tara Road,
Juhu Mumbai.

Criminal Misc.(Regular) Application No.4646 of 2022
Criminal Misc.(Interim) Application No.4869 of 2022

Applicant: Raman Pillai Bhaskaren Nair Sreekumar
Age: 75, Occu: Business,
Add: Sreelekshamideepam, Plot No.193,
Sector: 08/C, Gandhinagar.

Versus

Opponent : The State of Gujarat

Appearance :

Learned advocate Mr. S.M. Vatsa for bail application no.4617/2022
Learned advocate Mr. S. M. Vora for bail application no.4646/2022 & bail
(interim) application no.4869/2022.
Learned Special P.P. Mr. Miteshbhai Amin for bail application no. 4617/2022
for the opponent – State.
Learned Specail P.P. Mr. Amit M. Patel for bail application no. 4646/2022 for
the opponent - State.

COMMON ORDER BELOW EXH.1.

1. The applicants-accused of Criminal Misc. Application No.4617/2022 and Criminal Misc. Application No.4646/2022 & Criminal Misc. Application (Interim) No.4869/2022 have preferred application under Section 439 of Criminal Procedure Code to get Regular bail and to get Interim bail for the offence registered at D.C.B. Police Station (Ahmedabad), I-C.R.No.11191011220087/2022, under Section 468, 471, 194, 211, 218, 120(B) of the Indian Penal Code. The common law and facts being involved in all the applications are same and one, therefore, to avoid repetition of facts and to save time of the Court, all the applications are

being dealt with and decided by this common order.

2. The Id. Advocate of bail application no.4617/2022 has argued that the applicant is innocent and she has not committed the alleged offence. He has argued that this is the regular bail application. He has argued that the judgment of Hon'ble Supreme Court dated 24/06/2022 is produced vide mark 8/1. He has argued that the Special Investigation Team (SIT) had filed a report, which is produced vide mark 8/9. He has argued that SIT was investigating as many as 8 to 9 cases. He has argued that the SIT has submitted the closure report on 08/02/2012 against which the complainant had filed protest petition and protest petition was dismissed. Being dissatisfied with the same, the revision application had been preferred before the Hon'ble High Court and the same was dismissed and then against which Special Leave Petition was preferred before the Hon'ble Supreme Court. He has argued and gone through the page no.41 of the judgment delivered by Hon'ble Supreme Court. He has argued that as per page no.41, the Hon'ble Supreme Court has stated that the statement recorded in inquiry shall only be used in the proceedings in relation to the complaint of dated 08/06/2006 and it shall not be used for any other purpose or in connection with any other case. He has argued that there were many petitions before the Hon'ble Apex Court and due to that this finding was given by the Hon'ble Supreme Court upon page no.41 that it cannot be used in another case. He has argued that as per document mark 8/13, the list of protest petition has been shown, if the false documentary evidence have been created then the offence under section 467, 468 of IPC can be attracted and the section 193 and 194 of IPC are punishable provisions. He has argued that there is no evidence about fabrication of documentary evidence. He has argued that after closure report by the I.O., the protest report had been filed by the complainant. He has argued that the case of the prosecution that the monetary benefit had been obtained by the applicant-accused is absolutely baseless. He has

argued that this issue was in other trial and it was investigated by SIT, therefore, finding given by the Hon'ble Supreme Court that this cannot be considered in any case. He has argued that in Naroda Patia case, the applicant-accused had obtained anticipatory bail and case is pending. He has argued that order of anticipatory bail application is produced on record and the order of bail application vide Cr.M.A No.2802/2011 is produced of dated 02/08/2011 and in that case there was no any kind of contention about false documentary evidence have been prepared. He has argued that the larger conspiracy has some nexus/connection in the larger conspiracy in relation to the complaint. He has argued that final report is produced on record vide mark 8/9 and in that final report Sr. 19 is in the favour of applicant-accused. He has argued that statement given by the witnesses cannot be considered as an evidence. He has argued that in page no.189 at the end, it is mentioned that the statements were not prepared by Teesta. He has argued that in other cases the anticipatory bails were granted to the applicant-accused. He has argued that as per order of Hon'ble Supreme Court, many facts have not been stated, he has relied upon the page no.41 of the order of Hon'ble Supreme Court. He has argued that there is no need to go back about larger conspiracy. He has argued that as per order passed by Hon'ble Supreme Court on 14/07/2021 that offence u/s 211 of IPC is attracted and come within the purview of section 195(I)(b) of Cr.P.C. He has argued that there is a provision under section 195 of Cr.P.C. for taking cognizance. He has argued that this proceedings are clearly violation of provisions as this complaint has not been given by the Court. He has argued that the Closure report was accepted by the Court but no complaint has been filed. The Id. advocate for the applicant-accused has relied upon the citation in the case of Himanshu Kumar & Others and argued that there is a bar of taking cognizance, it is impermissible. He has argued that there is no complaint has been filed by the Court in closure proceeding. He has argued that the liberty of applicant-accused is restrained. He has argued that in the FIR

and affidavit of I.O., there is mention about section 468 of IPC. He has argued that there is ruling in case of Mohammed Ibrahim and relied upon para no.17, if there is an allegation that as per protest petition, the documents are false but can it be a part of this investigation and can it be travel beyond judgment and it is not permissible and it would be a travel of justice. He has argued that the allegations that money was taken was absolutely false. He has gone through the section-211 of IPC and argued that there is a provision of punishment for two years and in latter part of that section, the provision of punishable is up-to seven years. He has gone through the section-191 and argued that provision of section 468 and 471 of IPC are not applicable. He has argued that that the statement must be on oath and it cannot be read randomly. He has argued that the contention of the prosecution is against the ingredients of section 191, the case is that the persons, who were informed to made statement are false. He has argued that as per judgment of Hon'ble Apex Court, it is stated in the judgment that to keep the pot boiling. He has argued that as per citation under section 195 (l)(b) of Cr.P.C is barred and it is for the final proceeding. He has argued that there is no averment in the other proceeding, therefore it cannot be looked into. He has argued that as per provision of section 193 of IPC, the provision of punishment is seven years. He has argued that when the provision of punishable is up to seven years then there is a serious consideration for the grant of bail by the Hon'ble Supreme Court and judgment is given by the Hon'ble Supreme Court on dated 11/07/2022. He has argued that my friend Id. P.P. will argued that section 192 and 194 of IPC is applicable but these provisions are not applicable. He has argued that police statement cannot be used. He has argued that section 193 and 194 of IPC are N.C. offences for the false and fabricated evidence and provision of punishment is two to seven years and the prosecution has not shown any documentary evidence with record to offence punishable u/s 468 of IPC. He has argued that bail should be granted. He has argued that as per section 437 of Cr.P.C., this applicant-

accused has come within the category of woman and gone through the section and argued that as per provision of punishment for the accusations of offence is up-to seven years. He has argued that as per affidavit of I.O., page no.12 (para 9), the accusations are that the applicant-accused has given threat to others cannot be considered. He has argued that the remand application is produced on record vide mark 8/3, wherein, nothing has been mentioned about threat was given, therefore, simple allegations are not sufficient and suffice. He has argued that as per e-mail produced on record vide 8/4, the applicant-accused will give co-operation and she is ready to give co-operation, if the witnesses belongs to Gujarat then as per direction about particular place or station to attend as per the Court order. He has argued that as per documentary evidence vide mark 8/5-A, the applicant-accused has been provided security from 21/04/2004 to 2019 and after completion of trial, the security has been withdrawn. He has argued that there is an allegation about conspiracy against the applicant and she has been provided security for 15 years, can never be believed. He has argued that the applicant is ready and willing to abide by whatever conditions may be imposed on her by the Court. Therefore, he has requested to release applicant on bail on suitable terms and conditions.

3. The Id. Advocate of bail application no.4646/2022 has argued that the applicant is innocent and he has not committed the alleged offence. He has argued that the FIR was registered on dated 25/06/2022 at 11:00 AM and period of incident had been shown between 01/01/2002 to 25/06/2022 i.e. period as well as duration of incident shown as 20 years. He has argued that reason to register the FIR is on the basis of judgment delivered by the Hon'ble Supreme Court on dated 24/06/2022 and the Hon'ble Supreme Court has mentioned in the judgment at para no.88. He has argued that police had come at the house of the accused at Gandhinagar at 03:00PM i.e. within four hours, notice has not been given to the applicant-accused and applicant-accused was detained up-to

08:00PM. He has argued that no procedure had been followed for the detention and arrest of the applicant-accused. He has argued that after registering FIR, preliminary investigation is necessary but it has not been done. He has gone through the para no.4 of the affidavit and argued that the applicant-accused has filed affidavit, wherein earlier 2 affidavits, there was no allegations against Government. He has argued that 1st affidavit was filed before the Commission on dated 15/07/2002, the applicant-accused is retired in April 2007. He has argued that applicant-accused has filed 4 affidavits during his service tenure and as per the FIR, there was no allegation against Government in his two affidavits. He has argued that as per FIR and affidavit of I.O., in 3rd and 4th affidavit, there were allegations against the Government and this allegations were made during the his service tenure, at that time, the Government had neither issued notice nor taken any action against applicant-accused. He has argued that in subsequent affidavits, there were allegations against the Government then why the action has not been initiated in earlier two affidavits. He has argued that 5th affidavit filed on 03/05/2010 and 6th affidavit filed on 03/09/2010, 7th affidavit filed on 03/08/2011, 8th affidavit filed on 15/09/2011 and 9th affidavit filed on 12/01/2012. He has argued that in reaiton to the latter part of the affidavit till now, no action has been initiated. He has argued that during the service tenure, the applicant-accused has followed oral orders and made stamp in the register. He has argued that cross-examination of Zakia Jafri was conducted before Natavati Commission on dated 22/10/2010. He has argued that as per observation of the Hon'ble Supreme Court in the judgment of 24/06/2022 that at the house of C.M, Sanjiv Bhatt was present and given instruction not to do some particular work. He has argued that the applicant-accused has stated that Sanjiv Bhatt was not present in meeting and as per the finding of Hon'ble Supreme Court that present applicant-accused has not given name of Sanjiv Bhatt then it cannot be considered as conspiracy, as per FIR page no.9, these three person were present, it cannot be considered as

conspiracy. He has argued that applicant-accused has filed 9 affidavits before the Commission and same has not been produced before any of the Court. He has argued that 9 affidavit filed by the applicant before the Commission but it cannot submitted before any Court. He has argued that his affidavit is before the Commission and Commission cannot pass conviction relying upon the affidavit. He has argued that FIR is under section 468 and 471 of IPC. He has argued that if perused section 468 and 471 of IPC, then this applicant-accused has neither made any forgery nor prepared any documents. He has argued that vis-a-vis section 211 is applicable to the applicant-accused and section 218 is applicable, wherein, the provision of punishment is three years and it is bailable and it is N.C offence. He has gone through the section 194 of IPC, which is not applicable to the applicant-accused. He has argued that the case is rested upon the documentary evidence. He has argued that as per judgment of Hon'ble Supreme Court, notice has not been served to the applicant-accused and he has been arrested then he is entitled to get bail. He has argued that this applicant-accused is IPS Officer of 1997 Batch and he was retired in 2007 and during his service he had received medals. He has argued that the applicant-accused is 75 years of age and having age related diseases and prostate, the presence of the applicant-accused is easily available, Therefore, he has requested to release the applicant on bail on suitable terms and conditions.

4. The learned Special PP on behalf of the State has argued that the dispute raised by the applicant-accused about narrow in the sense that the false affidavit but the matter is very wide. He has argued that false and fabricated documents have been prepared by these two applicants-accused and another person in conspiracy against the State machinery, like the then C.M., Police and Bureaucrat. He has argued that the documentary evidence has been produced before the society and different forum that the post Godhara riot case/offences were sponsored and

engineered by the then C.M. and non-else, therefore case of the applicants-accused that the conspiracy onward from Feb-2002. He has argued that the application/complaint given by Zakia Jafri on dated 08/06/2006 was mandated and dictated by Teesta Setalvad and other 2 accused and Zakia Jafri was only used as a tool. He has argued that as per case of the applicants-accused that after Godhra Kand, the C.M had arranged meeting on dated 27/02/2002 at evening and told that let the Hindu be angered and the same fact had been falsify by the Hon'ble Supreme Court by judgment dated 24/06/2022. He has argued that the *bandh* was on 28/02/2002 by Vishwa Hindu Parishad, wherein the accused has stated that this *bandh* was supported by the State. He has argued that the corpse of Sabarmati train incident at Godhra were brought to Ahmedabad, wherein the accused had declared that there was parade of corpse. He has argued that the accusations that the Minister had gone in police control room and restrained in controlling Law and Order and given encouragement and the police have also not control Law and Order. He has argued that as per the accusation by the applicant-accused that the the then C.M, Ministers, Police Officers, Government Officers all are included in larger conspiracy and intentionally Military had been called by delay and that is accusation that these persons should be as an accused. The Id. Special P.P. has argued that after complaint of Zakia Jafri of dated 08/06/2006, it is presentation of Zakia Jafri to register the offence and thereafter Zakia Jafri and Teesta both had filed petition before the Hon'ble High Court vide R/Cr.M.A. No.421/2007, which is produced vide 10/5. He has argued that in that petition Teesta and Zakia Jafri were petitioners and they have sought relief that the application/complaint of dated 08/06/2006 be treated and registered as FIR and same has been disposed of by the Hon'ble High Court by stating that another remedy is available. He has argued that thereafter they both had approached to the Hon'ble Supreme Court by preferring Special Leave Petition (SLP) No.1088/08 as well as another SPL preferred by National Human Rights, thereafter as per order

of Hon'ble Supreme Court the SIT was constituted and in that petitions it was directed to supervise this work, the order of Hon'ble Supreme Court was dated 26/03/2008 for the constitution of SIT and it was monitoring by Hon'ble Supreme Court. He has argued that thereafter on dated 28/04/2008, the SIT has given public notice and in the application of Jafri the matter was also disposed of on dated 27/04/2009 by stating that "looked into". He has argued that the Hon'ble Supreme Court has passed order dated 12/09/2011 in SLP that report be filed in Meghaninagar Police Station registered vide I-C.R. No.67/2002 in Court no.11. He has argued that the closure report is filed on dated 08/02/2012 and protest petition was filed on dated 15/04/2013, and the Id. Metropolitan Magistrate Court had rejected the objections on dated 26/12/2013. He has argued that against which, the revision preferred before the Hon'ble High Court and same was dismissed on dated 05/10/2017. He has argued that against which they had filed SLP before the Hon'ble Supreme Court on dated 12/09/2018 and same was decided by Hon'ble Supreme Court on dated 24/06/2022 on merits. He has argued that the prosecution is relied upon mainly on closure report and material investigation papers of the offences and FIR has been registered on dated 25/06/2022. He has argued that the accusation of larger conspiracy was with an ulterior motive and sensitize crime. He has argued that as per investigation papers, two are Government Officers and they are not happy with Government and third one is Teesta, who is political aspirant lady. He has argued that the judgment of Hon'ble Supreme Court is produced vide 8/1. He has argued that as per judgment of Hon'ble Supreme Court page no. 96 to 164 is submission of SIT, page no.165 to 170 are submission of State and page no. 171 to 307 are finding of Hon'ble Supreme Court. He has argued that the present bail applications are based on FIR. He has argued that the investigation is at crucial stage. If the applicants-accused would be enlarged on bail then it will tamper the evidence and delay the investigation and with a view to protect the witnesses of the prosecution case they are not required to be

enlarged on bail. He has argued that Court has to scrutinize the papers after post filing the charge-sheet in detail. He has argued that at present there is a prima-facie case and there is a serious accusations against the applicants-accused. He has argued that there is quite enough material against the applicants-accused to be investigated. He has argued that the applicants-accused are influential persons. He has argued that as per deposition of Zakia Jafri, she has admitted upon page no.118 that she knew Teesta Setalvad and R.B. Sreekumar and R.B. Sreekumar is working with Teesta Setalvad. He has argued that as per page no.141 there is material on record that Zakia Jafri was driven by Teesta. He has argued that in the complaint of Zakia Jafir of the year 2006, wherein 50 English words, which are even not known to the lawyers. He has argued that as per page no.156, the Zakia Jafri has admitted that she has given statement pursuant to the instruction of Teesta Setalvad and R.B. Sreekumar. He has argued that in the complaint of Teesta, there is a name of Rahul Sharma as an accused no.45. He has argued that as per allegations of applicants-accused about part of the larger conspiracy at highest level, the corpse being paraded. He has argued that Zakia Jafri being used for wide allegations against the the then Government and Officers and Police personals. He has argued that till final decision of the closure report by the Hon'ble Supreme Court, no action can be initiated. He has argued that as per conduct of Teesta, she had also interacted with *Amicus Curiae*, who was appointed by the Hon'ble Supreme Court. He has argued that Teesta Setalvad had also written a letter to SIT Geneva through the *Amicus Curiae* appointed by Hon'ble Supreme Court and she has challenged the wisdom of Hon'ble Supreme Court. He has argued that it is an attitude of Teesta that she has not spared anyone. He has argued that in this case there are two applicant-accused and another is Bhatt, who is not before the Court and there is a accusation of conspiracy then whose point regarding conspiracy is required to be taken into consideration. He has argued that as per page no.24 of the judgment, the Hon'ble Supreme Court

has given finding that there is allegations by the applicants-accused regarding larger conspiracy at highest level by the then C.M and others had allowed the officials and Bureaucracy vent to Hindu anger on the minority. It is stated by Sreekumar in his affidavit. He has argued that as per para no.34 upon page no.217, the Hon'ble Supreme Court has given finding that the claim of larger conspiracy at the highest level had been collapsed like house of cards aftermath thoroughly investigation by SIT. He has argued that the case of the applicants-accused that incident of Godhra unfolded on 27/02/2002 was of the alleged larger conspiracy was considered as preposterous by the Hon'ble Supreme Court. He has argued that the contention of the protest petition are found on affidavit have been found to be repleted falsehood. He has argued by perusing judgment para no.88 (page 304) and argued that as per this judgment, the Hon'ble Supreme Court has given finding that with a view to keep the pot boiling and the Hon'ble Supreme Court has directed that it is an abuse of process of law and those, who are involved in this process are to be proceeded in accordance with law. He has gone through the order of Hon'ble Supreme Court of para no.89 and argued that the final report submitted by the SIT accepted without doing nothing more. He has argued that as per para no.91 of the Hon'ble Supreme Court has uphold decision given by Id. Magistrate accepted the final report of dated 08/02/2012 submitted by SIT. He has argued that the case of the applicants-accused is that this is the second FIR but it is false. He has argued that earlier there was no any kind of FIR on the point of large conspiracy as alleged by the applicants-accused. He has argued that till final decision of the Hon'ble Supreme Court FIR cannot be registered and in other cases this dispute has not been decided. He has argued that this is the separate FIR in relation to accusations of large conspiracy against the then C.M. etc. of dated 08/06/2006. He has argued that SIT was investigating other offences but these all petitions were quite different and distinct then petition of Zakia Jafri. He has argued that as per para no.83 of judgment of Hon'ble

Supreme Court, after decision, the second FIR in connection with the alleged offence can be filed in relation to protest petition. He has argued that affidavit of I.O., is produced, wherein, all the facts have been stated and there is no need to read the same and he has requested to consider the same. He has argued that the name of the statement of witnesses recorded u/s 164 of Cr.P.C. has not been mentioned in affidavit of I.O. due to investigation is at crucial stage, if names of the witnesses have been mentioned in affidavit, then threat will be given by the accused and it is part and parcel of the investigation. He has argued that the applicant-accused has challenged the wisdom of Hon'ble Supreme Court and written a letter to Geneva through Amicus Curiae then if she is enlarged on bail in this case then what else she can do more. He has argued that the photograph is produced on record vide 9/7 is of witness Qutubuddin Ansari and affidavit of I.O., is produced on record vide Exh.5 and in para -D upon page no.3 and emphasized that while enacting larger conspiracy and with a view to dismiss or destabilizing of Government of Gujarat by hook or crook and for that applicants-accused had obtained illegal finance and benefit from the rival political party. He has argued that vide 9/1, it is an FIR of Pandrvada and vide 9/2 affidavit of media person of Sahara channel Rahul Singh and as per para no.11, the conduct and behavior of Teesta is to pressurize. He has argued that the notice was sent to Teesta on dated 13/12/2019 in another case and as per her reply she has stated in letter that the I.O., has to come at Bombay and she is a woman. He has argued that the FIR of Ghatlodia was produced on record, wherein, she has distorted photograph of Mahakali Mata and later on she has apologized due to that the FIR was quashed, therefore, granting of bail is back to investigation. He has argued that in final report, the accused has read para no.19 of final report, wherein Id. advocate for the accused has read a latter part of para, whereas the whole of the para no.19 was required to be read. The Id. advocate for the accused has read three lines of page 41, but the para-Y of page no.39 is required to be read. He has argued that it is

misread of judgment regarding page no.41 about it cannot be used in another case and considering whole of the para, the submission on the part of the accused is false. He has argued that as per case of the applicants-accused, the documentary evidence vide 8/9 i.e. it is first FIR and anticipatory bail required to be granted is not correct. He has argued that the anticipatory bail was granted, wherein there is section-195 of IPC and the same order was challenged before the Hon'ble Supreme Court and the revision filed before the Hon'ble High Court by the Registrar of City Civil & Sessions Court was dismissed, wherein, Teesta was not a party and that is produced on record at page no.19. He has argued that Teesta had challenged the order before Hon'ble Supreme Court, which is produced on record vide 10/4 and thereafter, it was withdrawn on dated 16/12/2017 and Teesta had challenged order of dated 11/07/2011. He has argued that after withdrawing petition from the Hon'ble Supreme Court anticipatory bail was filed, which is produced vide 10/3. He has argued that the State had produced the papers about cancellation of bail application vide 10/4 is of dated 16/02/2018 and Teesta has filed Criminal Appeal before the Hon'ble High Court vide 497/2018 and challenged the order of Id. Magistrate. He has argued that as per para no.Y, Teesta has filed petition and sought relief to cancel the order in Sessions Case No.203/2009, in-spite of she was not an accused in that case. He has argued that one of the witness Raiskhan has filed defamation complaint against Teesta under section 500 of the IPC and the same has been challenged by Teesta before the Hon'ble High Court. It is not relevant that earlier Qutubuddin with her and present not. He has argued and emphasized that the society is concerned with crime, which is committed by the accused. He has argued that today the person is friend and tomorrow becomes enemy and today enemy becomes friend next day. He has argued that the documentary list produced vide Exh.9 is in relation to the incident of the applicants-accused about her antecedents. He has relied upon the para no.6 of the report regarding co-ordination. He has

argued that it is contention of the applicants-accused at para-N that there is no connection with Sajiv Bhatt but in para no.6 of the petition, it is mentioned about connection. He has relied upon the number of citations and argued that there is no bar about second FIR considering dispute and decision by the Hon'ble Supreme Court. Therefore, considering facts, he has requested to dismiss both the bail applications. If they would be enlarged on bail, then they will tamper or hamper the evidence. Therefore, he has prayed to reject the same.

5. The Id. Special P.P. on behalf of the State for bail application no. 4646/2022 has argued that as per para no.-E of the affidavit of I.O., produced vide Exh.7 the written complaint of Vithhalbhai Pandya was prepared as per advice and instruction of applicant and co-accused and there is one case against applicant-accused. He has argued that as per para no.F and H of the affidavit, larger conspiracy of the Zakia Jafri also be considered. He has argued that for the purpose of effective investigation the applicant-accused is not required to be enlarged on bail. He has argued that chapter-11 of IPC is in relation to fabricating the evidence and produced the same in public justice. He has argued that this applicant and other accused are doing many affidavits in spite of no incident was occurred and they had created false case of larger conspiracy and produced the same in the Court. He has argued that affidavit has been produced in the Sessions Court as well as Hon'ble Supreme Court. He has gone through the section-192 of IPC and argued that the accusations against the applicant-accused is under section 468 of IPC and for that section 463 and 465 are required to be read together. He has argued that investigation is in crucial stage. If the applicant-accused is enlarged on bail, he will tamper or hamper the investigation. He has argued that as per section 155(4) of Cr.P.C, when at-least one offence is cognizable then police officer has a power to investigate the case. He has discussed about the citation produced for and on behalf of the accused and contented that

these are not applicable. Therefore, he has requested to reject the bail application.

6. The Id. advocate for the accused of bail application no.4617/2022 has re-argued that there is a judgment delivered by the Hon'ble Supreme Court in case of Himanshu Kumar and others, he has argued that at which point of time embargo of section 195 of IPC would come and apply has been discussed in this case. He has argued that there is no ingredients of section 195 has been mentioned in the FIR. He has argued that section 192 of IPC is a definition section and section 194 of IPC is punishable section. He has argued that the complaint given by Zakia Jafri on dated 08/06/2006 was recent past decided by the Hon'ble Supreme Court. He has argued that closure report filed by SIT was accepted and same was confirmed by the Hon'ble High Court and Hon'ble Supreme Court. He has argued that section 192 is in two parts. He has argued that the latter part of section 192 is against complainant as no Court has taken cognizance, there is no ingredients of section 192 of IPC. He has gone through the last para of judgment of Himanshu kumar & others and contended that there is power to take cognizance. He has argued that as per citation of Hon'ble Supreme Court in case of Teesta Setalvad and another, the Court has to adopt dispassionate approach. He has gone through the section-340 of Cr.P.C and argued that inquiry has to be made by the Court. He has argued that in case of Lunavada, the summons was sent and it was sought in English, this contention is not tenable. He has argued that the woman cannot be called to police station. He has argued that as per section 68 to 88 of Cr.P.C is in relation to service of summons etc. therefore, contention raised by the Id. Special P.P. about conduct of present applicant-accused is not correct. He has argued that as per para no.29 and 30 and 32 to 35 the letter written by Teesta and affidavit filed by her was accepted by the Hon'ble Supreme Court. He has argued that as per para no.7, the statement was recorded of 375 persons

and questioning 275 persons and today, who is out of them. He has gone through the page no.165, at para no. no.8 (A) of the Hon'ble Supreme Court and argued that it is for the decorum and it is not an offence and there is no offence attracted under section 194 of IPC. He has argued that there is prima-facie case to enlarge the applicant-accused on bail and she is a lady, therefore required to be granted on bail. He has argued that the latter part of section-192 of IPC is not proved. He has relied upon the citations. He has argued that the applicant-accused has filed suit against Raiskhan for the damage of reputation. He has argued that Raiskhan has filed complaint against Teesta against which she had approached to the Hon'ble Supreme Court by way of petition no.28251/2022 and the applicant-accused had filed suit against Raiskhan before Bombay High Court, which is produced vide 8/2. He has argued that Raiskhan is giving statement against the applicant-accused after 11 years of filing of suit. He has relied upon the citation of Satyendra kumar and requested to enlarge the applicant-accused on bail. He has argued that the applicant-accused has been granted anticipatory bail in other case against which the Government has not approached for the cancellation of bail. He has argued that the investigation should be made but the applicant-accused should not be kept in jail. He has argued that there is no antecedents, therefore, requested to allow the present bail application.

6.1 The Id. advocate for the accused of bail application no.4646/2022 has re-argued that the prosecution has filed FIR vide Exh.8 of the present applicant-accused. He has argued that in that FIR the applicant-accused has been granted bail by the Kerala High Court. He has argued that as per Exh.9, wherein observation has been made by the Kerala High Court for granting bail to the applicant-accused. He has argued that the case is in relation to service and not the offence against society and due to that same has not been mentioned by applicant-accused in his application. He has argued that there is no antecedents. He

has argued that as per para no.6 of affidavit of I.O., the accusation made against the applicant-accused, which is mentioned at para-H that affidavit of dated 04/11/2010 for the sake of it believe even-though it is after retirement of the applicant-accused and it cannot be said to be illegal. He has argued that this applicant-accused had retired in the year-2007 and complaint given by Zakia Jafri on dated 08/06/2006 and this applicant-accused was not a party as petitioner before the Hon'ble High Court. He has argued that this applicant-accused has not gone at any place during his service tenure, therefore, the allegation are false. He has argued that this applicant-accused has neither been served notice nor initiated any action during his service tenure. He has argued that this applicant-accused has given application for Narco test and same has not been considered by Nanavati Commission. He has argued that Raiskhan is dismissal employee of CJP and action has been initiated against victim so he may be the main witness. He has argued that contention raised by the Special P.P. about the applicant-accused shall not be released on bail for the protection of investigation, it is not to be considered. He has argued that as per para no.88 of judgment of Hon'ble Supreme Court this applicant-accused is a retired IPS Officer and aged person, therefore he has requested to allow the present bail application as well as interim application.

7. I have carefully gone through the police papers, heard learned advocate for both the sides at length and carefully gone through the documents produced by both the sides as well as carefully gone through the citations produced by both the sides. On carefully perusing papers, it apparently appears that Zakia Jafri had filed application/complaint before the DGP, Gandhinagar on dated 08/06/2006, for the offence punishable under section 302 read with 120-B and 193 read with 114 etc of IPC and under section 6 of the Commission of Inquiry and Gujarat Police Act and Human Right Act etc., On carefully perusing complaint of Zakia Jafri, it apparently appears that she had shown the accused the then CM and

other number of Ministers and number of MLAs and number of reputed persons as well as also officials, as such she had filed complaint against 63 persons. It is important to note that Zakia Jafri had filed complaint on dated 08/06/2006 for registering the FIR against the then C.M. and other Minister and it was sent for investigation. Being dissatisfied with the same Zakia Jafri and present applicant-accused Teesta had filed Special Criminal Application No.421/2007 before the Hon'ble High Court and thereafter against order of Hon'ble High Court, they had approached to the Hon'ble Supreme Court by way of SLP No.1088/2008 and in that petition, the Hon'ble Supreme Court had appointed SIT and same was being monitored by the Hon'ble Supreme Court.

7.1 The application/complaint was being investigated by the SIT/Godhra riot cases, Gandhinagar. The SIT had filed closure report in detail and pursuant to closure report, the complainant/Zakia Jafri has filed protest petition. After hearing both the sides the Id. Metropolitan Magistrate had allowed the closure report filed by SIT appointed and supervised by Hon'ble Supreme Court. Being dissatisfied with the same, Zakia Jafri had filed Criminal Revision No.205/2014 before the Hon'ble High Court and same was also dismissed on merits. Being dissatisfying with the same, Zakia Jafri had filed Criminal Appeal before the Hon'ble Supreme Court arising out of Diary No.34207/2018. The Hon'ble Supreme Court has decided the matter on 24/06/2022. The Hon'ble Apex Court had directed that those, who are involved in such abuse of process need to be in dock and proceeded in accordance with law, thereafter, this complaint had been filed by P.I of Crime Branch, Ahmedabad.

7.2 I have carefully gone through the statement of witnesses as well as some material witnesses, whose statements were recorded before the different Id. Metropolitan Magistrates. On carefully perusing the same, it apparently appears that the accused Teesta has been provided monitory fund by the political faction with a view to highlight the incident as if it is

motivated and organized by the Government, though same has not been motivated. On perusing statement of witnesses, it appears that both these applicants and others were actively involved in the conspiracy against against the then C.M. and Ministers, police officers as well as Bureaucrat etc. On perusing papers, it appears that when Zakia Jafri has filed complaint on dated 08/06/2006, which was inspired and instigated by the applicant-accused Teesta and in that application, the person Sreekumar and other accused had been shown as one of the prime witnesses of the complaint of Zakia Jafri. I have also carefully gone through the cases filed by Raiskhan against Teesta Setalvad and Teesta has also filed case of defamation against Raiskhan. It is important to note that the applicant-accused Teesta has stated that she had obtained anticipatory bail in all the cases and Government has not approached for the cancellation of bail but this cases are quite different and distinct then this present FIR. It is also important to note that the conduct and manner as well as behavior of Teesta is concerned, she had tried to pressurize the media and she had written a letter to *Amicus Curiae* etc. conduct which itself shows that she is having nature to derail the investigation in present case, if she is enlarged on bail. On carefully perusing the papers, it appears that due to active interest of both the present applicants-accused they had gone to village Pandarvala, Dist: Panchmahal with a view to defame the State of Gujarat, as well as for their ulterior motive as well as political aspiration. The parties concerned had filed petition to transfer the case from Gujarat to Maharashtra and in that petition the present applicants-accused were main persons and they had gone to Padarvada also. It is important to note that the NGO of applicant-accused Teesta in the name of (Citizen for Justice and Peace) CJP was registered after Godhra train incident as well as post Godhra riot cases. On carefully perusing police papers, it apparently appears that Zakia Jafri had been used as a tool by both the applicants-accused and others with a view to accusations levelled against the then C.M and others about incident was of larger conspiracy and with a view to

that they have prepared false number of affidavits and documents, in spite of the things, which were not in real with a view to defame the then C.M. as well as Bureaucrat and police personals as well as to defame country in the world as well as to get the monetary benefit from the other countries. Therefore, if these applicants-accused would be enlarged on bail then definitely it will tamper or hamper the witnesses and and influence the investigation.

7.3 It is important to note that Sreekumar being an IAS retired officer has also filed affidavit during his tenure against the Government, even though Government has neither initiated any action nor issued show cause notice to him due to matter was subjudice and the same is pending. It is important to note that after conclusion of this dispute before the Hon'ble Apex Court, immediate after the complaint was filed, therefore the contention of the Id. advocate for the applicants-accused for Sreekumar that neither action nor notice have been served to him is not tenable as the matter was pending and subjudice before the Hon'ble Supreme Court, therefore, this contention of Id. advocate for the applicant-accused is not tenable. It is important to note that the applicant of bail application no.4646/2022 had gone to Pandarvala at Mahisagar District with the other accused Teesta Setalvad with some press reporters with a view to disstablished the Government and to tarnish the image of Gujarat in the country as well as in the other countries and both these applicants-accused had contacted Vithhalbhai Pandya the father of late Haren Pandya with a view to furtherance and their personal ulterior motive and made campaign against the Government that riots rampant in the State of Gujarat after post Godhra Train Incident was projected and sponsored by the then C.M and others.

7.4 The Id. advocate for the applicant-accused of bail application no.4617/2022 has mainly contended that as per section 195(1)(b) of Cr.P.C the cognizance is bar and contended that the Court can take the

cognizance and it is barred and the prosecution has not shown what kind of documents under section 468 of IPC have been prepared so the bail should be granted and he relied upon the citations as mentioned in his arguments, against which the Id. Special P.P has contended that there is no bar for taking cognizance and he has also produced citations in relation to matter travel and preferred by the present applicant-accused also and contended that this complaint had been registered pursuant to the order of Hon'ble Apex Court and there is an ingredients of section 192 and 194 etc. and as such the contention raised by the Id. advocate for applicant-accused about bar of section 195 and other section etc are not tenable.

7.5 I have considered the rival submission of both the sides on this points and also carefully gone through the citations produced by both the side. It is admitted fact that this complaint had been filed after final culmination of complaint of Zakia Jafri of dated 08/06/2006, as per the findings of the Hon'ble Supreme Court to proceed in accordance with law, who are involved in such abuse of process of law. I have carefully perused the papers, it apparently appears that this case is being investigated by the SIT for the accusations of applicants-accused and others for larger conspiracy of post Godhra Train Incident by the then C.M. and others was considered to be not established. It is important to note that the matter is at the investigation stage, therefore, the contention of the Id. advocate for the applicants-accused with regard to bar of section 195(1)(b) and other contention that section 192 and 194 of IPC etc are not applicable is not tenable at this stage.

7.6 The Id. advocate for accused of bail application no.4617/2022 has argued that the finding given by the Hon'ble Apex Court that statement recorded under this proceedings shall not be used for other purpose and the finding was in relation to the complainant of dated 08/06/2006 and it shall not be treated as precedent in any other case. It is important to note that the complaint filed by Zakia Jafri is of dated 08/06/2006 and thereafter

the SIT appointed and monitored by the Hon'ble Apex Court, has submitted the report and it was finally culminated before the Hon'ble Apex Court on dated 24/06/2022. It is important to note that this present FIR is in relation to complaint of Zakia Jafri of dated 08/06/2006 and FIR is registered after the judgment of Hon'ble Supreme Court, therefore, the contention of the Id. advocate that it cannot be used and treated in another case is not tenable at all. The Id. advocate for the applicant-accused has contended that in another case, there was nothing regarding fabrication of documents. It is important to note that Zakia Jafri had filed complaint on dated 08/06/2006 against the then C.M and number of Government officers, MLAs etc by accusing larger conspiracy on the part of the Government and with a view to create false evidence and affidavits with a view to procure the conviction of a capital punishment as well as to defame the Government not only in the county but in the world and with a view to get the monetary benefit from the other countries as well as for their personal goal and aspirant, the accusations were made against the Government about post Godhra riots were projected in larger conspiracy of the Government and pursuant thereto the Hon'ble Supreme Court has given the finding to initiate action against the person involved in such abuses of process and proceeded to accordance with law. It is first FIR after final decision of Hon'ble Apex Court in relation to the complaint of Zakia Jafri of dated 08/06/2006. Therefore, the contention of the Id. Advocate for the applicants-accused that this is the second FIR is not tenable. The Id. advocate for the applicants-accused has contended that there is no need to go back about the allegations about larger conspiracy. It is important to note that with a view to accusations by the person regarding larger conspiracy of the then C.M. and others was culminated in recent past, therefore, the contention of the Id. advocate for the applicants that no need to go back for the same has no relevancy. It is also not the case of the accused that they had not filed affidavit in conspiracy with others to defame the Government for accusation of larger conspiracy, which itself shows and suggests that the present applicants-

accused and others have created and fabricated false evidence with a view to convict a person for capital punishment. The Id. advocate for the applicants-accused has argued that as per judgment delivered by Satyendra Kumar and also as per other judgments, the accused is required to be enlarged on bail and argued that the bail is a rule and jail is an exception. It is important to note that while using the discretionary power of the bail, the Court has to considered the gravity and nature of offence as well as accusations levelled against the accused persons and the exercise of power of bail is to be utilized on case to case basis with a view to using wisdom to granting bail or remanding the accused in custody. In case on hand, the applicants-accused have in conspiracy with others with a view to defame the then C.M. and others made accusations against Government that post Godhra riots were sponsored by the Government and thereby defamed the State not only in country but in world also and with ulterior motive thereby obtained personal goal and monetary benefit from one political faction as well as other countries and this case has been registered pursuant to the final decision of the complaint given by Zakia Jafri of dated 08/06/2006 and Zakia Jafri was guided by both these applicants-accused and others.

7.7 It is also important to note that in the complaint of Zakia Jafri, the present applicant Sreekumar, Sanjiv Bhatt and others were shown as witnesses in that complaint of dated 08/06/2006, therefore, if the applicants-accused are enlarged on bail then it would impliedly encourage to the wrong does that in-spite of doing such type of accusations against the then C.M. and others, the Court has lightly enlarged the accused on bail. Therefore, looking to the above facts and circumstance, even though the applicant is being a lady and another is retired IPS officer and aged person, they are not required to be enlarged on bail. Therefore, considering the rival contention of both the sides as well as affidavit and documents filed by both the sides, this court do not find it to be fit to

exercise discretion in favour of the applicants-accused. There is no need to give detail and elaborate reasons for the same, if I do so, then it will adversely affect the right of the parties as well as investigation and it amounts to evaluate the evidence without the trial. Therefore, considering the police papers, I am of the view not to grant relief as prayed for. Hence, pass the following order.

:: ORDER ::

The Bail Applications Vide Cr.M.A No.4617/2022, Cr.M.A No.4646/2022 & Cr.M.A (Interim) No.4869/2022 are hereby rejected.

The copy of this order be kept with other Bail Applications Vide Cr.M.A No.4646/2022 & Cr.M.A (Interim) No.4869/2022

Pronounced in Open Court today on this 30th day of July 2022.

Place : Ahmedabad
Date : 30-07-2022

[Dilipkumar Dhirajlal Thakkar]
GJ00405
Additional Principal Judge,
Court No.2
City Civil & Sessions Court,
Ahmedabad

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