

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL APPEAL NO. 1523 of 2019**

**With**

**CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.  
1 of 2019**

**In R/CRIMINAL APPEAL NO. 1523 of 2019**

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**BIRJU SALLA @ AMAR SONI S/O KISHOR SALLA**

**Versus**

**STATE OF GUJARAT**

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Appearance:

MR. YOGESH LAKHANI, SENIOR ADVOCATE with MR. VIKRAM CHAUDHARI, SENIOR ADVOCATE with MR HARDIK P MODH, ADVOCATE (5344), MR. RISHI SEGAL, ADVOCATE, MR. AMIT LADDHA, ADVOCATE AND MS. SHWETA SEGAL, ADVOCATE for the Appellant(s) No. 1

MS. VRUNDA C. SHAH, APP for the Opponent(s) Respondent(s) No. 1

MR DEVANG VYAS, ASG with MR. KSHITIJ AMIN, ADVOCATE for the Opponent(s)/Respondent(s) No. 2

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**CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

**HONOURABLE MR. JUSTICE M. R. MENGDEY**

**Date : 08/08/2023**

**FARAD**

**(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

1. For the reasons recorded in the judgement rendered on even date in the aforesaid appeal as well as connected application, the Court has passed the following order:

**":ORDER:**

*On the substratum of the overall analysis of facts and circumstances of the case and on examination of the evidence threadbare, we do not subscribe to the view expressed by the trial court convicting and sentencing the appellant*

*for the offence of hijacking on the premise of evidence which is tainted with doubt. Hence, the present appeal stands allowed. The following order is passed:*

- (A) The impugned judgement and order dated 11/06/2019 passed by the Trial Court in NIA-Spl.Case no.1/2018 convicting and sentencing the appellant is quashed and set aside. The appellant is acquitted from the offence under Section 3(1) and 3(2)(a) of the Anti Hijacking Act, 2016;*
- (B) As a sequel the sentence under section 4(b) of the Act is set aside;*
- (C) The order of payment of fine as directed by the Trial Court to the tune of Rs.5,00,00,000/(Five Crores) is also set aside;*
- (D) The aforesaid fine shall be refunded to the appellant in case it is paid. The crew members are also directed to refund the amount of compensation in case the same is paid as per the directions of the Trial Court. In the alternative, the State is directed to pay the amount which is paid to the crew members, and it will be open for the State to recover such amount from the crew members;*
- (E) It is further directed that the properties which are seized by the Investigation Officer, and ordered to be confiscated under the provisions of section 19 of the Act, by the Trial Court shall be released forthwith;*
- (F) The appellant shall be set at liberty immediately, unless his custody is required in any other offence.*

*The captioned Criminal Misc. Application (for suspension of sentence) stands also disposed of. Record and proceedings received from the Trial Court, shall be transmitted back to the concerned Court forthwith."*

Sd/-

N.V.MEWADA  
Private Secretary