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**IN THE SPECIAL JUDGE (C.B.I.) COURT NO.2**  
**BHADRA AT AHMEDABAD**

**SPECIAL C.B.I. CASE NO. 02 OF 2013**

**Applicants/Accused :**

- 1. G.L.Singhal - Accused No.4**
- 2. Tarun Barot - Accused No.6**
- 3. Anaju Chaudhari - Accused No.7**

**Versus**

**Complainant : CBI.**

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**:Appearance:**

Learned Advocate Mr.B.P.Zala for Applicant No.1 (Accused No.4)

Learned Advocate Mr. Mukesh Brahmhatt for Applicant No.2 (Accused No.6)

Learned Advocate Mr. S.V.Thakkar for Applicant No.3 (Accused No.7)

Learned PP Mr. R.C.Kodekar for CBI.

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**ORDER BELOW EXHIBIT - 402:-**

1. Applicant No.1 / Accused No.4 Mr. G.L.Singhal, Applicant no.2 / Accused No.6 Mr. Tarun A. Barot and applicant no.3 / Accused No.7 Anaju Chaudhari have preferred present discharge application under section 227 read with section 197 of the Code of Criminal Procedure.
2. The applicants have preferred present application praying that they may be discharged in connection with the offenses registered as RC-BS1/S/2011/0005/Mum at CBI Special Crime Branch, New Mumbai for the offence punishable under sections 120(B) read with sections 341,

342, 343, 365, 368, 302 and 201 of the Indian Penal Code and section 25(1)(e) and 27 of the Indian Arms Act and /or to drop proceedings and to discharge them on the ground that the Government has declined prosecution sanction against them.

3. Learned Advocates for the applicants have argued out that the application in detail and have submitted that as this court has already decided while disposing the discharge application of the present applicants earlier that the offences alleged to have been committed by the applicants/ accused were committed while discharging their official duties by the accused police officers and therefore, the sanction under section 197 of the Criminal Procedure Code is required and when the Government has declined the prosecution sanction then all the accused are entitled either for discharge or the proceedings against the accused are required to be dropped.
4. Learned P.P. for the CBI Mr. R.C.Kodekar has argued that only after the trial is proceeded, the court can decide as to whether the act of the applicants is the one which is while discharging official duties or not? Moreover, the sanction refused by the Government is without application of mind and therefore, the present application Exhibit 402 should be dismissed.
5. It may be noted here that earlier this court issued notices to the Smt. Sameema Mohammad Shamim Raza wife of late Mohd. Shamim and Shri M.R.Gopinathan Pillai, who

are the relatives of victim and it came on record that Mr. M.R.Gopinathan Pillai has died and mother of victim Isharat Jahan submitted written submission at Exhibit 370 dated 18.09.2019 and in that connection, her lawyer Samshad Pathan earlier stated that he has nothing to argue and this court was requested to go through the written submission made by mother of the victim vide Exhibit 370.

6. This Court had taken into consideration the submissions made by the relatives of the victims and submissions made by the mother of the victim Ishrat Jahan and this court has in detail passed order below Exhibit - 355, 356 and 357 holding that the offences committed by the accused was while discharging their official duties and therefore, sanction under section 197 of the Code of Criminal Procedure is required and now because the government has declined the sanction now this court is in a position to decide the Exhibit 402 application on the basis of arguments advanced by the learned Advocate for the applicants / accused and learned P.P. Mr. R.C.Kodekar and written submissions which was filed by the mother of Isharat Jahan earlier vide Exhibit - 370 and also on the basis of sanction order at Exhibit - 399, 400 and 401 and therefore, the following discussion is made:
7. In the present case, while disposing application Exhibit 355, 356 and 357 after hearing learned Advocate for the parties and submission made by the mother of victim Isharat Jahan, this Court had passed order on 23.10.2020

and it was observed by this court as under:-

*"21. Having discussed earlier order of my predecessor brother Judge and interpreting the same, this court would also like to decide as to whether commission of offence by the present accused / applicants have been done while discharging their official duties or not? In that connection, first of all if we peruse charge against the accused and list of witnesses and documents submitted by the CBI, then it is a case of CBI that there were intelligence input received by the police regarding suspected terrorists who were gunned down by the Gujarat Police. If we peruse the charge-sheet, then one story of different investigating agency is that the alleged incident of encounter occurred between 1.30 to 2.00 am., on 15.06.2004. Deceased persons Jeeshan Johar @ Jaanbaz @ Abdulgani, Amjadali Akbarali Rana @ Salim @ Chandu @ Rajkumar, Javed and Ishrat Jahan died in exchange of firing and they were belonging to terrorist organization namely Lashkar-e-Toiyba. Firstly, on the basis of complaint of present accused J.G.Parmar, P.I., Crime Branch (At present died), filed before accused No.4, G.L.Singhal, the case was registered being Crime DCB PS I C.R.No.8/2004 under various sections of the Acts. An encounter was carried out on the specific intelligence input from Central Intelligence Bureau, (IB) Union of India, as well as specific confidential information of terrorists received by the police officers of the rank of Commissioner of Police, Joint Commissioner of Police and Additional Commissioner of Police that two Pakistani Fidayeens (Suicide Squad Terrorists) had left Kashmir for Ahmedabad by different routes with an intention to attempt a suicidal attack on Shri Narendra Modi, Chief Minister, State of Gujarat. Having received such intelligence input, the present applicants /accused Nos.4, 6 and 7 and other police officers had arranged meeting and all were informed*

*regarding intelligence input. Another information received by other accused that a blue color Indica Car bearing Registration No.MH-02-JA-4786 carrying two Pakistani Fidayeens along with firearms and explosives had left Mumbai for Ahmedabad and the said car is likely to reach Ahmedabad any time in the early morning. Thereafter, teams were formed and they were given their respective points. They were keeping watch on vehicles entering in the City of Ahmedabad. One of the teams had seen one blue color Indica car was taking a turn towards airport road from Himmatnagar Railway Crossing. Therefore, the police officers who were standing at different places were informed. It was alleged that one of the Assistant Commissioner of Police ordered to fire on the tyre of Indica car whereupon the rear tyre of the car was burst and the said car dragged towards road divider and ultimately stopped. One of the terrorist from rear door of the car started indiscriminate firing from AK 56 Rifle towards the police personnel. It is alleged that the police personnel who were stationed there, also in retaliation, opened fire on the terrorists. After the firing was over, upon inspection, it was found near Indica car, one woman terrorist seated on the seat adjacent to the driver seat and terrorist who had taken position near road divider had lost their lives in the said incident. The said incident is treated as encounter and persons died in the incident are terrorists.*

22. *The Case of the CBI as a second story is that Isharat and Javed were apprehended from Vasad toll booth on 12.06.2004 and they were kept in Khodiyar Farm House. Another terrorist Amjad was apprehended from Gota circle in the month of May 2004 and he was kept in Arham Farm House. Though there is no evidence showing details when 4<sup>th</sup> terrorist Jeeshan Johar was arrested and from where he was arrested, but after apprehending all the four accused, the*

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*meeting of high level police officers was held and on 15.06.2004 early in the morning, all the four accused were brought at the place of incident and they were killed. The CBI depended upon statement of the witnesses recorded under section 164 of the Code of Criminal Procedure who were shown as accused in the FIR but thereafter, CBI has filed Charge-sheet against only 7 police officers including present three police officers and four IB officers.*

23. *Therefore, this court is of the view that story of Gujarat Police is that they received information from I.B. that four terrorists had entered into the Gujarat, therefore, blockades (Nakabandhi) was done. A Blue coloured Indica Car was passing at Himatnagar Railway Crossing and signal was given to stop the car, when the car did not stop, police fired on the tyre of the car. Resultantly, the car dragged in a side of road and one of the terrorists came out of the car and started firing on the police. In retaliation, police also fired on the terrorists, resultantly, all of them had died. Therefore, act of the police officers can be said to have done while discharging their official duties. Not only that but when the incident took place, all the police officers were on duties and in their official vehicles having their official arms with them. If we consider the fact that CBI has filed Charge-sheet against four I.B. Officers on 06.02.2014, at that time, the cognizance was not taken by the court as sanction order was not a part of the charge-sheet paper. Thereafter, CBI demanded sanction of the Central Government, which was not granted and it was held by the Central Government that the act done by the officers was official act.*
24. *So far as the present accused are concerned, it appears from the case papers that the investigation was carried out by the different agencies. The incident of encounter of four persons occurred on*

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15.06.2004 in the morning time at Kotarpur Water Works area in Ahmedabad and terrorists namely Zeeshan Johar @ Jaanbaz Abdul Ghani, resident of Gujranwale, Pakistan, Amjadali Akbarali @ Rana @ Salim @ Chandu @ Babar @ Rajkumar resident of Sangoda, Pakistan, Javed Gulam Mohd. Shaikh & Praneshkumar Pillai resident of Pune, Maharashtra and Ishrat Jahan resident of Mumbai were killed. After that accused No.1 J.G. Parmar, PI, Crime Branch lodged complaint before G.L. Singhal, ACP, Crime Branch, Ahmedabad against said four persons who were according to them, involved in terrorists activities and offence was registered with DCB Police Station, Ahmedabad vide Cr.No.I-8/2004. Thereafter, Additional D.G.P., C.I.D., had also conducted inquiry about the incident and report dated 14.10.2004 was submitted to D.G.P., Gujarat State. Additional D.G.P., C.I.G. has concurred with the version stated in the FIR filed by the present accused No.1 (Now dead) that all those four persons were charged with the offences punishable under Sections 120B, 121, 121A, 122, 123, 307, 353, 186 of IPC as well as for the offences punishable under Sections 25(1)(a), 27, 29 of the Arms Act and under Sections 3(1)(a)(b), 3(2), 3(3), 20, 21 of the Prevention of Terrorism Act, (POTA) and under Section 135 of the BP Act. As per the investigation of Ms. Prikshita Gurjar, ACP, Mahila Cell, charge for the offence under Sections 4 and 5 of the Explosive Substances Act and under Sections 4 and 53 of the POTA were added and abetted summary was demanded against all four persons.

25. It is important to consider that in the investigation, Shri Varma found that deceased Ishrat Jahan with Javed were involved in the illegal activities of smuggling and counterfeit currency. Ishrat Jahan had knowledge of illegal activities of Javed before she joined him. Deceased Javed had two passports and had checkered history and criminal record of four

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*offences against body. Deceased Amzadali was also linked with Javed in Uttar Pradesh. Javed obtained illegal small firearms in U.P. and he was involved in the illegal activities with Amzadali and they had linked with some terrorist outfits. As indicated, he was possessing 30 coconuts, a satellite phone, some unexplained money, AK 56 rifle, 3 magazines, 17 kg. of explosive substances. Deceased Amjad Ali was identified because of photograph behind which Salim was written. His link was found with some accused who were arrested in Kashmir. He had connection with some terrorist outfits appears to be on some sound ground in the investigation conducted so far. Deceased Zeeshan Johar was identified on a fake identity card issued from Udhampur, Jammu and Kashmir in the name of Abdul Ghani. Nobody had come to claim his dead body. Further, it was revealed during the investigation by Shri Verma that he might be associated with some terrorists organization. Movement of Javed and Isharat were also found which mentioned in the complaint. It was found that on 12.6.2014 in the night, Javed and Ishrat Jahan had stayed in a hotel at Bardoli.*

26. *It may be noted here that the complainant Shri R.R. Verma who filed the complaint has received certain information regarding illegal/anti-social and terrorist activities of four deceased persons, which means that the information received by Gujarat Police was true, based on sound, solid and correct information. Therefore, police officers who are involved in the present case were duty bound to keep watch and supervision on the movement and activities of the above said four persons, who died in the encounter. The deceased persons were not common, simple and ordinary offenders, but they were alleged terrorists and having criminal history. It may be noted here that after 06.12.1992, there were number of bomb blasts in the area of Ahmedabad, Surat, Godhra, Mumbai*

*and other parts of India. There was a serious terrorist attack on Swaminarayan Temple (Akshardham) at Gandhinagar (Gujarat). Therefore, all the present accused being police officers posted in Crime Branch, were supposed to keep vigil and they were doing and discharging their official duties at the time when deceased entered into Gujarat. Number of anti-national and terrorist activities were spread all over India, more particularly, in Gujarat State. The present applicants / accused police officers were duty bound to take necessary steps in order to maintain law and order. There cannot be any presumption of fake encounter on the part of any such police officers. They were to be more cautious and alert to maintain peace in the public at large. Looking to the bomb blasts in Ahmedabad in the past and looking to the seriousness and gravity of information received by them from I.B. with regard to the terrorists entering into Gujarat, they cannot ignore the information. They are bound to be dedicated in their duties. Looking to the facts that some material was found from the Indica Car, it is established that the information regarding terrorist received by the police was correct, sound and there was genuineness in the information. Therefore, in order to prevent four persons, who died in the encounter, officers were required to do some preventive actions. The present applicant / accused being high rank police officers of Gujarat State were answerable to public at large and government also. Therefore, to make teams to prevent terrorists, to have discussion, to stand at different places and to intercept four persons against whom the information was received were all official acts or duties performed by all the police officers. It is clear that acts which is alleged to have been done by the present applicants / accused were in discharge of their duties, or purported to be in discharge of their duties. Accused No.4 Mr. Singhal was on duty, accused No.7 Tarun Barot was on duty and Accused*

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*No.7 Anaju Chaudhary was also on duty. There was order of blockades (Nakabandhi) on different routes to prevent entry of terrorists in Ahmedabad city. The present applicants / accused being police officers had their vehicles and were having official arms. I.B. officers were involved in this matter. Therefore, subsequently, charge-sheet was filed against them under section 120B of IPC but the CBI did not demand or request for any sanction for prosecution against Gujarat Police Officers. Though, the accused police officers were on their official duties.”*

8. This court also had discussed and appreciated the following judgments on the issue “whether the act may be said to have been done in discharge of his duties or while the act purported to be done in discharge of his duties”.

(A) Manorama Tiwari vs. Surendra Nath Rai- 2016 (1) SCC 594.

(B) Matajog Dobey vs. H.C. Bhari, reported at AIR 1956 SC 44.

(C) State of Himachal Pradesh vs. M.P. Gupta- (2004) 2 SCC 349.

(D) Om Prakash vs. State of Jharkhand - 2012 (12) SCC 72.

(E) Shreekantiah Ramayya Munipalli vs. State of Bombay (1955) 1 SCR 1177.

(F) State of Maharashtra vs. Budhikota Subbarao, reported at 1993 (3) SCC 339:

(G) Rakesh Kumar Mishra vs. State of Bihar- 2006 (1) SCC 557

(H) Surendra Pande vs. State of Bihar- 2000 (9) SCC 149:

- (I) State through Central Bureau of Investigation vs. B.L. Verma- 1997 (10) SCC 772.
- (J) Sankaran Moitra vs. Sadhna Das & Anr.- AIR 2006 SC 1599.
- (K) Devinder Singh vs. State of Punjab reported at (2016) 12 SCC 87= AIR 2016 SC 2090.

9. In the earlier order this court has also observed as under:-

- “29. This Court is of the view that considering the above stated all the citations, in the present case, the CBI was required to get sanction for prosecution because as per the aforesaid discussion, all the applicants / accused being higher police officers were on their official duties. Even if, we peruse replies of CBI, then it is stated that the court has not ordered CBI to go for sanction but this court is of the view that it may be possible only when the CBI has proceeded to get sanction for prosecution and it is under consideration of the State.*
- 30. In the present case, CBI has not filed any application seeking sanction for prosecution. It is well settled law that without the sanction for prosecution, taking cognizance is bad in law. Therefore, sanction is necessary in the present case. The CBI has not done any process for getting sanction. The accused are involved in the serious case as there is an encounter by the accused police officers. Therefore, when it was established that the accused have acted while performing their official duties, the CBI ought to have got sanction in the case of present accused. Therefore, this court is of the view that the CBI should be directed to go for sanction for prosecution or to make declaration in this regard, as to whether they will get sanction for prosecution or not.*
- 31. Looking to the Section 39 of the Arms Act, no*

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*prosecution shall be instituted against any persons in respect of any offences under Section 3 without previous sanction of the District Magistrate and in this case, no such sanction is obtained by the CBI. Further, the alleged incident of encounter took place while the applicants were discharging / performing their duties and therefore, sanction for prosecution is must. In absence of such sanction for prosecution no charge can be framed against the applicants.*

32. *It appears that the allegations against the IB Officers and Gujarat Police officers are the same, if we peruse the chargesheet papers, but the CBI has asked for sanction for prosecution against the I.B. Officers but CBI has not asked for sanction for prosecution against the Gujarat Police Officers. As discussed earlier in the present order, as per the settled principles of law, the question regarding sanction for prosecution is required to be decided at the time of framing of charge. The Charge against the accused cannot be framed in absence of sanction under section 197 of the Code of Criminal Procedure. As per the above discussed citations and settled law, the prosecution can file sanction for prosecution at any stage in the case, and therefore, CBI should make it clear whether it will obtain sanction for prosecution or not, so that the case of the complainant may not be affected. Framing of charge against the present applicants / accused police officers without official sanction would be bad in law, and therefore, CBI is required to be directed to either obtain sanction for prosecution from the concerned authority or to declare in writing with regard to the legal position in connection with the sanction for prosecution against the present applicants / accused, so that this court can proceed with further trial in accordance with law.*
33. *From the above said discussion, this Court is of the view that all the Gujarat Police Officers, who are*

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*involved in the present case were on their official duties. After getting I.B. intelligence information with regard to four terrorists entering into the Gujarat, the teams were formed and police officers were at different position and all police officers who are involved in the present case were duty bound to prevent terrorists and there is no dispute that information with regard to the terrorists was not received and also it is not in dispute that all the deceased four persons were having criminal history and they had terrorist links as discussed earlier. Role of the present police officers cannot be separated as they all had acted in their official duties but unfortunately, encounter occurred and four persons died. Thereafter, after many years, police officers were involved in the fake encounter of the terrorists. When it appears that the Gujarat Police Officers including the present applicants were on their official duties, sanction under section 197 of the Code of Criminal Procedure is must.”*

10. Thereafter, the CBI did not give anything any writing about the legal position regarding the present case for vital issues like prosecution sanction, different investigating Agencies and genuineness of intelligence input and genuineness of encounter. Instead the CBI moved the government for obtaining sanction for prosecution. On 20.03.2019, CBI has filed purshish vide Exhibit - 394 and produced by “Hand Delivered / Email copy of sanction order dated 18.03.2021 passed by Pankaj Kumar, Additional Chief Secretary, Home Department, Government of Gujarat so the accused No.4, 6 and 7 have filed Exhibit 402 application to drop the proceedings. The sanction order of the Government of Gujarat is reproduced as under:

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1. "By Hand Delivery / E-mail.

GOVERNMENT OF GUJARAT

No. PQN/252021/84(3)/G  
Home Department,  
2, Sardar Bhavan,  
Sachivalaya, Gandhinagar.  
18<sup>th</sup> March, 2021.

To,  
The Superintendent of Police,  
Central Bureau of Investigation,  
Spl. Crime Branch,  
A-2, Wing, 8th Floor, C.G.O. Complex,  
Belapur, B.B.D., New Mumbai - 400614

Sub. : Regarding Sanction for Prosecution u/s 197  
Of Cr.P.C in CBI Case No. RC-5(S)/ 2011/  
Mum. (Ishrat Jahan encounter Cases)

Ref. : 1. CBI, Special Crime Branch, Mumbai  
office letter No.RC 5(S)/ 2011/ Mum. (Ishrat  
Jahan Cases)/ 244/21 dated 15/01/2021.

2. CBI, Special Crime Branch, Mumbai  
office letter no.RC5(5)/ 2011/ Mum. (Ishrat  
Jahan Cases)/375 dated 15/1/2019

Sir,

With reference to the subject cited above; and to state that as per your letter which caption in reference sent a proposal no. RC.5(S)/2011/Mum. (Ishrat Jahan Case)/244/2021 dated 15.01.2021 seeking sanction for prosecution under Section 197 of the Code of Criminal Procedure against Shri Anaju Jiman Chaudhary the then Police Constable, Ahmedabad City, for the allegation of his being involved in a criminal conspiracy,

*encounter-death of four persons destruction of evidence, etc.;*

*2. WHEREAS, the records and report received from CBI have been carefully and thoroughly examined by the Home Department, Government of Gujarat, which reveals that Shri Anaju Jiman Chaudhary has been charged for offences punishable under sections 302, 364, 368, 348, 120(B), 201, 203, 204, 217 and 218 of the Indian Penal Code and 25(1)(e), 27 of Arms Act in the Charge-sheet filed by CBI. In compliance with the order dated 01.12.2011 passed by the Hon'ble High Court of Gujarat, the aforesaid investigation was carried out by CBI in pursuance to an FIR filed by Shri R.R.Verma, Chairman (Special Investigation Team) wherein it was alleged that the encounter-death of four persons was found to be not genuine.*

*3. AND WHEREAS, the CBI has now sought sanction against Shri Anaju Jiman Chaudhary u/s. 197 of the Code of Criminal Procedure, 1973 in compliance to the common order passed and directions issued below Exhibits 355, 356 and 357 dated 23.10.2020 by the Ld. Special Judge, CBI-Court No.2, at Mirzapur, Ahmedabad City.*

*4. AND WHEREAS, CBI in its letter dated 15.01.2021 has made allegations of criminal conspiracy, murder, abduction, illegal confinement, destruction of evidence, creation of false records by public servants, offences related to Arms Act, etc., against Shri Anaju Jiman Chaudhary, the then Police Constable.*

*5. AND WHEREAS, this Department has examined the case in view of the fact that that Hon'ble Supreme Court through catena of decisions has expressly held that Public Servants should not be exposed to criminal prosecution which are based on malicious foundation. It has also been held in catena of decisions that Public*

*Servants are to be treated as special class of persons enjoying protection under section 197 of the code of Criminal Procedure. This is so because the same enables any public servant to perform his/her duties without any fear and favour. Further, the said protection against malicious prosecution is to be extended in larger public interest only. Therefore, the material provided by CBI against Shri Anaju Jiman Chaudhary in the records and report submitted has been analysed from the perspective of aforesaid principles of law.*

6. *AND WHEREAS, a perusal of the records of the case reveals thus;*

*(i) The FIR registered by CBI on the complaint of Shri R.R.Verma, IPS, vide RC BS1/S/2011/2005 named twenty police officers as accused. The said FIR was filed after detailed further investigation conducted by the Special Investigation Team. However, the perusal of the Charge-sheet filed by C.B.I. reveals that only seven persons were charge-sheeted including Shri Anaju Jiman Chaudhary.*

*(ii) The entire case of prosecution is based on the statements of the police officers who were earlier named as accused in the F.I.R., but subsequently not charge-sheeted. Further the records reveal that the first date of arrest in the case being 21<sup>st</sup> February, 2013, the Investigating Agency was duty bound to file its charge sheet latest before 20<sup>th</sup> May, 2013 i.e. within a period of 90 days so as to ensure that no arrested accused gets default bail. However, various arrested persons were released on default bail under section 167 of the Code of Criminal Procedure, due to delay in filing of charge-sheet. Further, one of the arrested persons, namely Shri Bharkumar A. Patel, was not charged subsequently by the C.B.I. and cited as witness. The records and report do not provide any plausible*

*explanation for these glaring diversions from standard procedures of investigation.*

*(iii) There is no oral evidence in the nature of witness statement against Shri Anaju Jiman Chaudhary. The only piece of evidence against him is that he was a part of the encounter team formed to apprehend the deceased terrorists. The factum of his having fired from his official weapon is an admitted position of fact since the time of registration of the FIR being DCB CR No.8/04. Further, the reconstruction reports, including those submitted by C.F.S.L./A.I.I.M.S. team, corroborates the version of the first FIR registered vide C.R.No.I-8/04 at DCB Police Station, Ahmedabad City.*

*(iv) The facts narrated by other police officers and personnel, in the statements recorded by C.B.I. are in complete variance and contradiction to the numerous previous statements given by the said police officers and personnel and recorded by various authorities during the course of previous and/or earlier investigation / inquiry.*

*(v) Para 5.5 of the FIR vide RC BS1/S/2011/0005 registered at the instance of Chairman, Special Investigation Team makes a mention of the fact that two out of the four deceased were Pakistanis and had terror links. The possibility of the 3<sup>rd</sup> male deceased too having terror links has not been ruled out. With regards to the deceased female, though the FIR does not directly link her to any terrorist organization, the fact of her having an idea of the illegal activities of the third male deceased has not been ruled out. However, from the records as placed by the C.B.I., it transpires that the deceased Ishrat Jahan was member of Lashkar-e-Taiba, wherein Lahore Based 'Ghazwa Times', mouthpiece of Lashkar-e-Taiba, had claimed her as a woman*

*activist of Lashkar-e-Taiba.*

*(vi) Neither the FIR filed by the Chairman, Special Investigating Team nor the charge-sheet filed by the C.B.I. attributes any motive against any charge-sheeted accused person, including Shri Anaju Jiman Chaudhary.*

*(vii) The C.B.I. has alleged that the entire operation was a joint operation conducted by Gujarat Police and Subsidiary Intelligence Bureau (SIB), Ahmedabad. The sanction for prosecution u/s. 197 of the Code of Criminal Procedure, 1973 has been refused by the Ministry of Home Affairs, Government of India when the C.B.I. sought sanction for prosecution against the four Central Intelligence Bureau officials charge-sheeted in supplementary chargesheet dated 06.02.2014.*

*7. AND WHEREAS, it has been observed that there is no oral evidence against Shri Anaju Jiman Chaudhary. The whole case of prosecution is mainly based on the statements of witnesses who have been shown as accused in the F.I.R. The Investigating Agency had resorted to procedures which are contrary to the standard procedures of investigation by allowing some of the arrested accused persons to be released on default bail and no extending the same advantage of allowing some arrested accused persons to be released on default bail. The official duty of Shri Anaju Jiman Chaudhary required him to act against the imminent terrorist threat to the State. The deceased persons were acting as part of pre-planned conspiracy to perpetrate acts of terror in Gujarat. No motive has been attributed to Shri Anaju Jiman Chaudhary for the purported acts or omission alleged in the charge-sheet;*

*8. AND WHEREAS, the Government of Gujarat had vide its orders No.PQN/252018/2251/G, dated 6<sup>th</sup>*

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*March, 2019 communicated and conveyed the decision of the State Government declining prosecution sanction u/s. 197 Cr.P.C. with respect to Shri D.G.Vanzara and Shri N.K.Amin;*

*9. AND WHEREAS, the Government of Gujarat is satisfied that Shri Anaju Jiman Chaudhary should be protected against malicious and vexatious prosecution in this case, and the said protection is made extendable to him in larger public interest;*

*10. AND WHEREAS, the Government of Gujarat having fully examined the records provided by the Investigating Agency, as per extant rules and procedures, and considering all the facts and circumstances of the case, is satisfied that no case is made out for grant of prosecution sanction against Shri Anaju Jiman Chaudhary under section 197 of the Code of Criminal Procedure, 1973;*

*11. AND NOW, THEREFORE, in exercise of the powers conferred under Section 197 of the Code of Criminal Procedure, 1973, the Government of Gujarat hereby conveys its decision to decline prosecution sanction against Shri Anaju Jiman Chaudhary, the then Police Constable, Ahmedabad City.*

*Yours faithfully,*

*SD/-*

*(Pankaj Kumar)*

*Additional Chief Secretary*

*Home Department."*

2. *"By Hand Delivery / E-mail.*

*GOVERNMENT OF GUJARAT*

*No. PQN/252021/84(3)/G*

*Home Department,*

2, Sardar Bhavan,  
Sachivalaya, Gandhinagar.  
18<sup>th</sup> March, 2021.

To,  
The Superintendent of Police,  
Central Bureau of Investigation,  
Spl. Crime Branch,  
A-2, Wing, 8th Floor, C.G.O. Complex,  
Belapur, B.B.D., New Mumbai - 400614

*Sub. : Regarding Sanction for Prosecution u/s 197  
Of Cr.P.C in CBI Case No. RC-5(S)/ 2011/  
Mum. (Ishrat Jahan encounter Cases)*

*Ref. : 1. CBI, Special Crime Branch, Mumbai  
office letter No.RC 5(S)/ 2011/ Mum.  
(Ishrat Jahan Cases)/244/21 dated  
15/01/2021.*

*2. CBI, Special Crime Branch, Mumbai  
office letter no.RC5(5)/ 2011/ Mum. (Ishrat  
Jahan Cases)/375 dated 15/1/2019*

*Sir,*

*With reference to the subject cited above; and to state that as per your letter which caption in reference sent a proposal no. RC.5(S)/2011/Mum. (Ishrat Jahan Cases)/244/2021 dated 15.01.2021 seeking sanction for prosecution under Section 197 of the Code of Criminal Procedure against Shri Tarun Barot, the then Police Inspector, Ahmedabad City (now retired), for the allegation of his being involved in a criminal conspiracy, encounter-death of four persons destruction of evidence, etc.;*

*2. WHEREAS, the records and report received from CBI have been carefully and thoroughly examined by the Home Department, Government of Gujarat, which*

*reveals that Shri Tarun Barot has been charged for offences punishable under sections 302, 364, 368, 348, 120(B), 201, 203, 204, 217 and 218 of the Indian Penal Code and 25(1)(e), 27 of Arms Act in the Charge-sheet filed by CBI. In compliance with the order dated 01.12.2011 passed by the Hon'ble High Court of Gujarat, the aforesaid investigation was carried out by CBI in pursuance to an F.I.R. filed by Shri R.R.Verma, Chairman (Special Investigation Team) wherein it was alleged that the encounter-death of four persons was found to be not genuine.*

*3. AND WHEREAS, the C.B.I. has now sought sanction against Shri Tarun Barot u/s. 197 of the Code of Criminal Procedure, 1973 in compliance to the common order passed and directions issued below Exhibits 355, 356 and 357 dated 23.10.2020 by the Ld. Special Judge, CBI-Court No.2, at Mirzapur, Ahmedabad City.*

*4. AND WHEREAS, CBI in its letter dated 15.01.2021 has made allegations of criminal conspiracy, murder, abduction, illegal confinement, destruction of evidence, creation of false records by public servants, offences related to Arms Act, etc., against Shri Tarun Barot, the then Police Inspector.*

*5. AND WHEREAS, this Department has examined the case in view of the fact that that Hon'ble Supreme Court through catena of decisions has expressly held that Public Servants should not be exposed to criminal prosecution which are based on malicious foundation. It has also been held in catena of decisions that Public Servants are to be treated as special class of persons enjoying protection under section 197 of the code of Criminal Procedure. This is so because the same enables any public servant to perform his/her duties without any fear and favour. Further, the said protection against malicious prosecution is to be*

*extended in larger public interest only. Therefore, the material provided by C.B.I. against Shri Tarun Barot in the records and report submitted has been analysed from the perspective of aforesaid principles of law.*

6. *AND WHEREAS, a perusal of the records of the case reveals thus;*

*(i) The FIR registered by CBI on the complaint of Shri R.R.Verma, IPS, vide RC BS1/S/2011/2005 named twenty police officers as accused. The said FIR was filed after detailed further investigation conducted by the Special Investigation Team. However, the perusal of the Charge-sheet filed by C.B.I. reveals that only seven persons were charge-sheeted including Shri Tarun Barot.*

*(ii) The entire case of prosecution is based on the statements of the police officers who were earlier named as accused in the F.I.R., but subsequently not charge-sheeted. Further the records reveal that the first date of arrest in the case being 21<sup>st</sup> February, 2013, the Investigating Agency was duty bound to file its charge sheet latest before 20<sup>th</sup> May, 2013 i.e. within a period of 90 days so as to ensure that no arrested accused gets default bail. However, various arrested persons, including one Shri Bharkumar A. Patel (Subsequently cited as one of the main witness against Shri Tarun Barot as P.W.-155), were all released on default bail under section 167 of the Code of Criminal Procedure, due to delay in filing of charge-sheet. Further, Shri Bharkumar A. Patel, was not charged subsequently by the C.B.I. and cited as witness. The records and report do not provide any plausible explanation for these glaring diversions from standard procedures of investigation.*

*(iii) The other prime-witness against Shri Tarun*

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*Barot in the charge-sheet, namely Shri I.K.Chauhan (P.W.-92) was also named as accused in the said F.I.R. The facts narrated by this witness, as also other police officers and personnel, in the statements recorded by C.B.I. are in complete variance and contradiction to the numerous previous statements given by the said police officers and personnel, and recorded by various authorities during the course of previous and / or earlier investigation / inquiry.*

*(iv) The reconstruction reports, including those submitted by CFSL/AIIMS team, corroborates the version of the first FIR registered vide C.R. No.I-8/04 at DCB Police Station, Ahmedabad City.*

*(v) Para 5.5 of the FIR vide RC BS1/S/2011/0005 registered at the instance of Chairman, Special Investigation Team makes a mention of the fact that two out of the four deceased were Pakistanis and had terror links. The possibility of the 3<sup>rd</sup> male deceased too having terror links has not been ruled out. With regards to the deceased female, though the FIR does not directly link her to any terrorist organization, the fact of her having an idea of the illegal activities of the third male deceased has not been ruled out. However, from the records as placed by the C.B.I., it transpires that the deceased Ishrat Jahan was member of Lashkar-e-Taiba, wherein Lahore Based 'Ghazwa Times', mouthpiece of Lashkar-e-Taiba, had claimed her as a woman activist of Lashkar-e-Taiba.*

*(vi) Neither the FIR filed by the Chairman, Special Investigating Team nor the charge-sheet filed by the C.B.I. attributes any motive against any charge-sheeted accused person, including Shri Tarun Barot.*

*(vii) The C.B.I. has alleged that the entire operation was a joint operation conducted by Gujarat Police*

*and Subsidiary Intelligence Bureau (SIB), Ahmedabad. The sanction for prosecution u/s. 197 of the Code of Criminal Procedure, 1973 has been refused by the Ministry of Home Affairs, Government of India when the C.B.I. sought sanction for prosecution against the four Central Intelligence Bureau officials charge-sheeted in supplementary chargesheet dated 06.02.2014.*

*7. AND WHEREAS, it has been observed that evidence against Shri Tarun Barot is mainly based on the statements of witnesses who have been shown as accused in the F.I.R. The Investigating Agency had resorted to procedures which are contrary to the standard procedures of investigation by allowing some of the arrested accused persons to be released on default bail and not extending the same advantage of allowing some arrested accused persons to be released on default bail. The official duty of Shri Tarun Barot required him to act against the imminent terrorist threat to the State. The deceased persons were acting as part of pre-planned conspiracy to perpetrate acts of terror in Gujarat. No motive has been attributed to Shri Tarun Barot for the purported acts or omission alleged in the charge-sheet;*

*8. AND WHEREAS, the Government of Gujarat had vide its orders No.PQN/252018/2251/G, dated 6<sup>th</sup> March, 2019 communicated and conveyed the decision of the State Government declining prosecution sanction u/s. 197 Cr.P.C. with respect to Shri D.G.Vanzara and Shri N.K.Amin;*

*9. AND WHEREAS, the Government of Gujarat is satisfied that Shri Tarun Barot should be protected against malicious and vexatious prosecution in this case, and the said protection is made extendable to him in larger public interest;*

10. AND WHEREAS, the Government of Gujarat having fully examined the records provided by the Investigating Agency, as per extant rules and procedures, and considering all the facts and circumstances of the case, is satisfied that no case is made out for grant of prosecution sanction against Shri Tarun Barot under section 197 of the Code of Criminal Procedure, 1973;

11. AND NOW, THEREFORE, in exercise of the powers conferred under Section 197 of the Code of Criminal Procedure, 1973, the Government of Gujarat hereby conveys its decision to decline prosecution sanction against Shri Tarun Barot, the then Police Inspector, Ahmedabad City.

*Yours faithfully,*

*SD/-*

*(Pankaj Kumar)*

*Additional Chief Secretary  
Home Department."*

3. *"By Hand Delivery / E-mail.*

*GOVERNMENT OF GUJARAT*

*No. PQN/252021/84(3)/G  
Home Department,  
2, Sardar Bhavan,  
Sachivalaya, Gandhinagar.  
18<sup>th</sup> March, 2021.*

*To,  
The Superintendent of Police,  
Central Bureau of Investigation,  
Spl. Crime Branch,  
A-2, Wing, 8th Floor, C.G.O. Complex,*

*Belapur, B.B.D., New Mumbai - 400614*

*Sub. : Regarding Sanction for Prosecution u/s 197  
Of Cr.P.C in CBI Case No. RC-5(S)/ 2011/  
Mum. (Ishrat Jahan encounter Cases)*

*Ref. : 1. CBI, Special Crime Branch, Mumbai  
office letter No.RC 5(S)/ 2011/ Mum. (Ishrat  
Jahan Cases)/ 244/21 dated 15/01/2021.*

*2. CBI, Special Crime Branch, Mumbai  
office letter no.RC5(5)/ 2011/ Mum. (Ishrat  
Jahan Cases)/375 dated 15/1/2019*

*Sir,*

*With reference to the subject cited above; and to state that as per your letter which caption in reference sent a proposal no. RC.5(S)/2011/Mum. (Ishrat Jahan Cases)/244/2021 dated 15.01.2021 seeking sanction for prosecution under Section 197 of the Code of Criminal Procedure against Shri G.L.Singhal, the then Assistant Commissioner of Police, Ahmedabad City (now Inspector General of Police), for the allegation of his being involved in a criminal conspiracy, encounter-death of four persons, destruction of evidence, etc.;*

*2. WHEREAS, the records and report received from C.B.I. have been carefully and thoroughly examined by the Home Department, Government of Gujarat, which reveals that Shri G.L.Singhal has been charged for offences punishable under sections 302, 364, 368, 348, 120(B), 201, 203, 204, 217 and 218 of the Indian Penal Code and 25(1)(e), 27 of Arms Act in the Charge-sheet filed by C.B.I. In compliance with the order dated 01.12.2011 passed by the Hon'ble High Court of Gujarat, the aforesaid investigation was carried out by CBI in pursuance to an F.I.R. filed by Shri R.R.Verma, Chairman (Special Investigation Team) wherein it was alleged that the encounter-death of four persons was*

*found to be not genuine.*

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3. *AND WHEREAS, the C.B.I. has now sought sanction against Shri G. L. Singhal u/s. 197 of the Code of Criminal Procedure, 1973 in compliance to the common order passed and directions issued below Exhibits 355, 356 and 357 dated 23.10.2020 by the Ld. Special Judge, CBI-Court No.2, at Mirzapur, Ahmedabad City.*

4. *AND WHEREAS, C.B.I. in its letter dated 15.01.2021 has made allegations of criminal conspiracy, murder, abduction, illegal confinement, destruction of evidence, creation of false records by public servants, offences related to Arms Act, etc., against Shri G.L.Singhal, the then Police Inspector.*

5. *AND WHEREAS, this Department has examined the case in view of the fact that that Hon'ble Supreme Court through catena of decisions has expressly held that Public Servants should not be exposed to criminal prosecution which are based on malicious foundation. It has also been held in catena of decisions that Public Servants are to be treated as special class of persons enjoying protection under section 197 of the code of Criminal Procedure. This is so because the same enables any public servant to perform his/her duties without any fear and favour. Further, the said protection against malicious prosecution is to be extended in larger public interest only. Therefore, the material provided by C.B.I. against Shri G.L.Singhal in the records and report submitted has been analysed from the perspective of aforesaid principles of law.*

6. *AND WHEREAS, a perusal of the records of the case reveals thus;*

(i) *The FIR registered by CBI on the complaint of Shri R.R.Verma, IPS, vide RC BS1/S/2011/2005 named twenty police officers as accused. The said*

*FIR was filed after detailed further investigation conducted by the Special Investigation Team. However, the perusal of the Charge-sheet filed by C.B.I. reveals that only seven persons were charge-sheeted including Shri G.L.Singhal.*

*(ii) The entire case of prosecution is based on the statements of the police officers who were earlier named as accused in the F.I.R., but subsequently not charge-sheeted. Further the records reveal that the first date of arrest in the case being 21<sup>st</sup> February, 2013, the Investigating Agency was duty bound to file its charge sheet latest before 20<sup>th</sup> May, 2013 i.e. within a period of 90 days so as to ensure that no arrested accused gets default bail. However, various arrested persons, including one Shri Bharkumar A. Patel (Subsequently cited as one of the main witness against Shri G.L.Singhal as P.W.-155), were all released on default bail under section 167 of the Code of Criminal Procedure, due to delay in filing of charge-sheet. Further, Shri Bharkumar A. Patel, was not charged subsequently by the C.B.I. and cited as witness. The records and report do not provide any plausible explanation for these glaring diversions from standard procedures of investigation.*

*(iii) The other prime-witness against Shri G.L.Singhal in the charge-sheet, namely Shri I.K.Chauhan (P.W.-92) was also named as accused in the said F.I.R. The facts narrated by this witness, as also other police officers and personnel, in the statements recorded by C.B.I. are in complete variance and contradiction to the numerous previous statements given by the said police officers and personnel, and recorded by various authorities during the course of previous and / or earlier investigation / inquiry.*

(iv) *The reconstruction reports, including those submitted by C.F.S.L./A.I.I.M.S. team, corroborates the version of the first FIR registered vide C.R. No.I-8/04 at DCB Police Station, Ahmedabad City.*

(v) *Para 5.5 of the FIR vide RC BS1/S/2011/0005 registered at the instance of Chairman, Special Investigation Team makes a mention of the fact that two out of the four deceased were Pakistanis and had terror links. The possibility of the 3<sup>rd</sup> male deceased too having terror links has not been ruled out. With regards to the deceased female, though the FIR does not directly link her to any terrorist organization, the fact of her having an idea of the illegal activities of the third male deceased has not been ruled out. However, from the records as placed by the C.B.I., it transpires that the deceased Ishrat Jahan was member of Lashkar-e-Taiba, wherein Lahore Based 'Ghazwa Times', mouthpiece of Lashkar-e-Taiba, had claimed her as a woman activist of Lashkar-e-Taiba.*

(vi) *Neither the FIR filed by the Chairman, Special Investigating Team nor the charge-sheet filed by the C.B.I. attributes any motive against any charge-sheeted accused person, including Shri G.L.Singhal.*

(vii) *The C.B.I. has alleged that the entire operation was a joint operation conducted by Gujarat Police and Subsidiary Intelligence Bureau (SIB), Ahmedabad. The sanction for prosecution u/s. 197 of the Code of Criminal Procedure, 1973 has been refused by the Ministry of Home Affairs, Government of India when the C.B.I. sought sanction for prosecution against the four Central Intelligence Bureau officials charge-sheeted in supplementary chargesheet dated 06.02.2014.*

7. *AND WHEREAS, it has been observed that*

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*evidence against Shri G.L.Singhal is mainly based on the statements of witnesses who have been shown as accused in the F.I.R. The Investigating Agency had resorted to procedures which are contrary to the standard procedures of investigation by allowing some of the arrested accused persons to be released on default bail and not extending the same advantage of allowing some arrested accused persons to be released on default bail. The official duty of Shri G.L.Singhal required him to act against the imminent terrorist threat to the State. The deceased persons were acting as part of pre-planned conspiracy to perpetrate acts of terror in Gujarat. No motive has been attributed to Shri G.L.Singhal for the purported acts or omission alleged in the charge-sheet;*

*8. AND WHEREAS, the Government of Gujarat had vide its orders No.PQN/252018/2251/G, dated 6<sup>th</sup> March, 2019 communicated and conveyed the decision of the State Government declining prosecution sanction u/s. 197 Cr.P.C. with respect to Shri D.G.Vanzara and Shri N.K.Amin;*

*9. AND WHEREAS, the Government of Gujarat is satisfied that Shri G.L.Singhal should be protected against malicious and vexatious prosecution in this case, and the said protection is made extendable to him in larger public interest;*

*10. AND WHEREAS, the Government of Gujarat having fully examined the records provided by the Investigating Agency, as per extant rules and procedures, and considering all the facts and circumstances of the case, is satisfied that no case is made out for grant of prosecution sanction against Shri G.L.Singhal under section 197 of the Code of Criminal Procedure, 1973;*

*11. AND NOW, THEREFORE, in exercise of the*

*powers conferred under Section 197 of the Code of Criminal Procedure, 1973, the Government of Gujarat hereby conveys its decision to decline prosecution sanction against Shri G.L.Singhal, the then Assistant Commissioner of Police (Crime), Ahmedabad City.*

*Yours faithfully,  
SD/-  
(Pankaj Kumar)  
Additional Chief Secretary  
Home Department.”*

11. Learned P.P. has argued that the sanction orders are mostly similar and the sanction is not the sanction with application of mind. But, the said arguments cannot be accepted because in the sanction orders, it is specifically mentioned that the records and reports received from the C.B.I. have been carefully and thoroughly examined by the Home Department. The department has examined the case in view of the fact that the Hon'ble Supreme Court through catena of decisions has expressly held that Public servants should not be exposed to criminal prosecution who are based on malicious foundation. The sanction order also speaks the chronology of events by which it is described that how the encounter took place and the victims were having terror links and Pakistanis, Ishrat Jahan was member of Lashkar-e-Taiba, wherein Lahor Based "Ghazwa Times", mouthpiece of Lashkar-e-Taiba had claimed her as a woman activist of Lashkar-e-Taiba. There is no motive of applicants / accused Mr. G.L.Singhal, Mr. Tarun Barot, and Mr. Anaju Chaudhary, the joint operation was conducted by the Gujarat Police and Subsidiary Intelligence Bureau (SIB), Ahmedabad,

the sanction for prosecution under section 197 of the Code of Criminal Procedure was refused by the Ministry of Home Affairs, Government of India, when the CBI sought sanction for prosecution against the four Central Intelligence Bureau officials chargesheeted in supplementary Charge-sheet dated 06.02.2014. The sanction order also speaks about no oral evidence against Mr. Tarun Barot and Mr. Anaju Chaudhary and evidence against Mr. G.L.Singhal is mainly based on the statements of witnesses who have been shown as accused in the FIR. In short, refusal of sanction order is detailed one and based on the basis of entire material belonging to the case. The order is passed with the application of mind and Government has also come to the conclusion that the offences committed by the present applicants are such which have been committed while discharging their official duties as police officers and also the investigation against the accused is not proper and there is no evidence against the accused. Ultimately, the Government of Gujarat has declined the prosecution sanction against the present applicants/ accused.

12. It may be noted here that after this court passed an order below Exhibits 355, 356 and 357, neither the C.B.I. nor mother of the victim moved higher courts to challenge the same, which means that the observations made by this court have been accepted by the C.B.I. as well as mother of the victim. If the same were not accepted, they would have challenged the earlier order passed by this Court. In absence of challenge of earlier order, this court is bound

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to proceed further in accordance with law. Earlier in the case of accused Mr. Rajiv Anant Rao Wankhede, Tushar Santoshkumar Mittal etc., Central Government had declined sanction for prosecution vide order dated 05.07.2015 on the ground that I.B. Officers had acted in discharge of their official duties. Neither C.B.I. nor mother of victim had challenged the said sanction order as well as order passed in Revision Application No.4/2017. In connection with the earlier order passed by this court below Exhibits - 355, 356 and 357, the C.B.I. asked for sanction for prosecution and the C.B.I. also asked for the sanction against four I.B. Officers before the Central Government, which suggests that C.B.I. also accepts that alleged act of the applicants / accused is such which is while discharging their official duties. When this court observed in the earlier order that act of Accused no.4, Mr. G.L.Singhal, Accused No.6 Mr. Tarun Barot and Accused No.7 Mr. Anaju Chaudhary is in discharge of official duties, the C.B.I. was bound to declare any other legal position as per law with regard to sanction for prosecution against the accused. The C.B.I. has not challenged the earlier order below Exhibits - 355, 356 and 357 and mother of victim has also not challenged the same. But the C.B.I. moved the government for grant of sanction for prosecution and now the Government of Gujarat has declined the sanction for prosecution against the accused Nos.4, 6 and 7. It is the common case of the Central Government, Government of Gujarat and Police Agencies of other States on affidavit before the Hon'ble High Court of Gujarat that all 4 persons allegedly killed in

encounter namely (1) Zeeshan Johar @ Jaanbaaz @ Abdul Ghani, Resident of Gujranwale, Pakistan (2) Amjad Ali Akbar Ali @ Rana @ Salim @ Chandu @ Babbar @ Raj Kumar, resident of Sangoda, Pakistan (3) Javed Gulam Mohd. Shaikh @ Praneshkumar Pillai Resident of Pune, Maharashtra (4) Ishrat Jahan, resident of Bombay. Out of 4 persons, 2 were admittedly Pakistani nationals having entered into Indian territory illegally and were Lashkar-e-Toiba (LET) operatives and they had entered the State of Gujarat with a view to carry out a massive terrorist operation including assassination of some important leaders as a module of terrorist operation of LeT. In the petitions filed by the name of relatives of the above named Javed Gulam Shaikh and Ishrat Jahan, the Central Government was joined as a party respondent, which through the Home Ministry of the Union of India, filed a detailed affidavit in terms pointing out that:

- a. The Central I.B. had specific inputs about the movement of the aforesaid 4 persons, which was communicated to Gujarat Police.
- b. There were specific inputs on record of Central I.B. clearly showing that the LeT, through the aforesaid 4 persons, had planned a massive terrorist act in Gujarat, and
- c. Ishrat Jahan was also an LeT operative (which became evident from the interrogation of David Headly of United States of America's FBI that she was a suicide bomber) along with other three persons.

13. It is pertinent to note that the complainant Shri R.R. Verma, who filed the complaint had received certain information regarding illegal/ anti-social and terrorist activities of 4 deceased persons, which is already described earlier as well as in Para 5.5 of the complaint. Therefore, it is established that information received by Gujarat Police was based on sound, solid and correct information. Therefore, it was required to keep watch and supervision on the movement and activities of the above said 4 persons. They were not simple and ordinary offenders, but they had indulged into above referred so many activities. It is further pertinent to note that after 6.12.1992, there were number of bomb blasting in the area of Ahmedabad, Surat, Godhra, Mumbai and other parts of India. It is also pertinent to note that there was a serious terrorist attack on Swaminarayan Temple (Akshardham) at Gandhinagar (Gujarat). There were number of bomb blasting in the area of Ahmedabad, as stated above. Therefore, the concerned police officers of Ahmedabad who were doing and discharging their official duties were bound to keep watch and supervision on all these activities. Number of anti-national and terrorist activities were spread all over India, more particularly in Gujarat State. Being high rank police officers, it was their boundant duty to take necessary steps in order to maintain law and order. There is no question of any fake encounter on the part of any such police officer. All the police officers were to be more cautious and alert to maintain peace in the public at large. In the past, at number of places in Ahmedabad, there were bomb

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blasting. Therefore, seriousness and gravity of information cannot be ignored by high rank police officers. They are always dedicated to their duties. Looking to the material found from the Indica Car, it is established that the information was correct, sound and there was substantial force in the information. Therefore, these 4 persons were required to be prevented from all these aforesaid activities. It is pertinent to note that even the complainant has also found this information sound and correct. In all these circumstances, all the high rank police officials of Gujarat State were answerable to public at large and government also. As a matter of fact, as per the provisions of law, all the police officers are considered to be on duty for all 24 hours. Therefore, it is clear that the act which is alleged to have been done by the accused was in discharge of their duties or purported to be in discharge of their duties.

14. It also appears from the Exhibit 398, purshish filed by the C.B.I. and from the sanction order Exhibit 399, 400 and 401 that C.B.I. has not mentioned anything specific against the sanction order which also leads to believe the act of applicants / accused was in discharge of official duties.
15. From the above said discussion, when this court earlier observed that the act of accused was while discharging official duties, nobody challenged the order. Not only that but the Central Government and Government of Gujarat have also believed that the act of the applicants / accused

is while discharging the duties and therefore, the government was moved for sanction and the sanction is refused also. There is nothing on record even prima facie to suggest that the victims were not terrorists, the I.B. inputs were not genuine. Therefore, the present application requires to be allowed. Hence, Court passes following final order:

**ORDER**

The present discharge applications Exh.402 of the Accused No.4 Mr. G.L.Singhal, Accused No.6 Mr. Tarun Barot and Accused No.7 Mr. Anaju Chaudhary is hereby allowed and they are discharged from the offences registered as RC BS1/2011/S/0005-MUM for the offences punishable u/s 120B r/w 341, 342, 343, 365, 368, 302 and 201 of IPC and sec. 25(1)(e) and 27 of the Indian Arms Act.

The bail bond stands canceled and security amounts, if any, deposited by the applicants / accused are ordered to be refunded to them.

The applicants are directed to give fresh security and personal bond of Rs.15,000/- (Rupees fifteen thousand only) each till the appeal period is over.

Yadi of this order be sent to C.B.I.

Pronounced in the open court on the **31<sup>st</sup>** day of **March, 2021**.

Sd/-

Date : 31.03.2021  
Place: Ahmedabad.

**Vipul R. Raval**  
Special Judge,  
CBI Court No.2,  
Ahmedabad,  
[Unique Code. No.GJ00421]

*Paras#*