

Prahladbhai Jagabhai Patel vs The State Of Gujarat on 28 January, 2020

Bench: Chief Justice, B.R. Gavai, Surya Kant

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ITEM NO.1

COURT NO.1

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal

No(s).196/2018

PRAHLADBHAI JAGABHAI PATEL & ANR.

Appellant(s)

VERSUS

THE STATE OF GUJARAT

Respondent(s)

(I.A. NO. 29794 OF 2019 (APPLICATION FOR BAIL) IN CRIMINAL APPEAL NO. 1286 OF 2018 AND PRAYER FOR INTERIM RELIEF IN CRIMINAL APPEAL NO. 692 OF 2019 AND CRIMINAL APPEAL 140 OF 2020)

WITH

IA No. 29794/2019 - (GRANT OF BAIL) IN CrI.A. No. 1286/2018 (II-B)
(FOR GRANT OF BAIL ON IA 29794/2019)

CrI.A. No. 692/2019 (II-B)
(ONLY PRAYER FOR INTERIM RELIEF)

CrI.A. No. 140/2020 (II-B)
(FOR ADMISSION and I.R. and IA No.6090/2020-CONDONATION OF DELAY IN FILING and IA No.6091/2020-EXEMPTION FROM FILING O.T. WITH PRAYER FOR INTERIM RELIEF)

Date : 28-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

For Appellant(s)

Mr. P.S. Patwalia, Sr. Adv.
Mr. Siddhesh Kotwal, Adv.
Ms. Bansuri Swaraj, Adv.
Ms. Arshiya Ghose, Adv.
Mr. Divyansh Tiwari, Adv.
Ms. Ana Upadhyay, Adv.
Ms. Harshika Verma, Adv.
Mr. Akshay Chaddha, Adv.

Signature Not Verified	Ms. Astha Sharma, AOR
	Mr. Nikhil Goel, Adv.
	Ms. Naveen Goel, Adv.
Digitally signed by SANJAY KUMAR Date: 2020.01.31 17:10:34 IST Reason:	Mr. Aniruddha Deshmukh, AOR
For Respondent(s)	Mr. Tushar Mehta, Ld. SG Ms. Manisha Lav Kumar, Adv.
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Mr. Aniruddha P. Mayee, AOR
Mr. A. Rajarajan, Adv.

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

I.A. No.29794/2019 - (GRANT OF BAIL) IN CrI.A. No.1286/2018 We have heard Mr. P.S. Patwalia, learned Senior Counsel for the appellants and Mr. Tushar Mehta, learned Solicitor General appearing for the respondent – State and perused the record.

It is stated that the appellants have been released on temporary bail, furlough and parole on several occasions. The period for which they have been out of custody under the said arrangements ranged from 190 to 520 days. There is no report of their having misconducted themselves or indulged in any criminal activities.

It is not disputed that none of the appellants have criminal antecedents. Further, we find that these appellants have been found guilty by the appellate court on the deposition of one witness.

We may gainfully refer to paragraph 19 of the decision of this Court in Babu Singh and others vs. State of U.P.¹ “19. A few other weighty factors deserve reference. All deprivation of liberty is validated by social defense and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offences while on judicially sanctioned “free enterprise”, should be provided against. No seeker of justice shall play confidence tricks on the community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our Constitution.” It could, thus, be seen that this Court has held that punitive harshness should be minimized and restorative devices to redeem the man, even through community service, meditative drill, etc. should be innovated. We, therefore, find that it will be appropriate in the circumstances to direct the release of the appellants on bail. While doing so, we also find appropriate that the appellants be directed to

engage in any spiritual programme or to do some social/community services.

Accordingly, during the pendency of this appeal, the appellants are directed to be released on bail on furnishing bail bonds in the sum of Rs.25,000/- (Rupees twenty five thousand only) each with two sureties of the like amount to the satisfaction of the trial court and subject to the following conditions :

- (1) That the appellants shall not enter the State of Gujarat until the final decision of their pending appeal(s) before this Court.
- (2) That they shall reside in the District of Indore, Madhya Pradesh, and report to the Police Station at Palasia, Indore, on the first day of each calendar month.
- (3) That they shall not leave the District of Indore without obtaining permission from the learned District & Sessions Judge, Indore.
- (4) That the appellants shall engage themselves in any spiritual programme or do some social/community services for a minimum period of six hours in a week during the period of bail in view of the judgment and order passed by the this Court in the case of Babu Singh & Ors. vs. The State of Uttar Pradesh (supra).

It is further directed that Member Secretary of the Madhya Pradesh State Legal Services Authority shall produce a certificate before this Court stating therein that the appellants are regularly engaged in any of the aforesaid programme/services. The Madhya Pradesh State Legal Services Authority shall also assist the appellants for obtaining employment in the district of Indore.

The Madhya Pradesh State Legal Services Authority shall submit a report of the compliance of the above conditions and regarding general conduct of the appellants once in every three months initially.

In view of the above, the interlocutory application for bail stands allowed.

CRIMINAL APPEAL NO.692/2019 - ONLY PRAYER FOR INTERIM RELIEF We have heard Mr. P.S. Patwalia, learned Senior Counsel for the appellants and Mr. Tushar Mehta, learned Solicitor General appearing for the respondent – State and perused the record.

The facts in the present case are almost identical with the facts in I.A. No. 29794/2019. The appellants have been released on temporary bail, furlough and parole on several occasions. The period for which they have been out of custody under the said arrangements ranged from 244 to 660 days. There is no report of their having misconducted themselves or indulged in any criminal activities. It is not disputed that none of the appellants have criminal antecedents.

In these circumstances, we consider it appropriate in the interests of justice to direct the release of the appellants on bail.

Accordingly, during the pendency of this appeal, the appellants are directed to be released on bail on furnishing bail bonds in the sum of Rs.25,000/- (Rupees twenty five thousand only) each with two sureties of the like amount to the satisfaction of the trial court and subject to the following conditions :

- (1) That the appellants shall not enter the State of Gujarat until the final decision of their pending appeal(s) before this Court.
- (2) That they shall reside in the District of Jabalpur, Madhya Pradesh, and report to the Police Station at Civil Lines, Jabalpur, on the first day of each calendar month.
- (3) That they shall not leave the District of Jabalpur without obtaining permission from the learned District & Sessions Judge, Jabalpur.
- (4) That the appellants shall engage themselves in any spiritual programme or do some social/community services for a minimum period of six hours in a week during the period of bail in view of the judgment and order passed by this Court in the case of Babu Singh & Ors. vs. The State of Uttar Pradesh (supra).

It is further directed that Member Secretary of the Madhya Pradesh State Legal Services Authority shall produce a certificate before this Court stating therein that the appellants are regularly engaged in any of the aforesaid programme/services. The Madhya Pradesh State Legal Services Authority shall also assist the appellants for obtaining employment in the district of Jabalpur. The Madhya Pradesh State Legal Services Authority shall submit a report of the compliance of the above conditions and regarding general conduct of the appellants once in every three months initially.

Order accordingly.

CRIMINAL APPEAL NO.140/2020 – ONLY PRAYER FOR INTERIM RELIEF We have heard Mr. Nikhil Goel, learned counsel for the appellant and Mr. Tushar Mehta, learned Solicitor General appearing for the respondent – State and perused the record. The facts in the present case are also identical with the facts in the earlier two cases. The appellant is aged about 65 years and has been in jail for about 7 years. Further, we find that the appellant has been found guilty by the appellate court on the depositions of two witnesses.

In these circumstances, we consider it appropriate in the interests of justice to direct the release of the appellant on bail.

Accordingly, during the pendency of this appeal, the appellant is directed to be released on bail on furnishing bail bonds in the sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties of the like amount to the satisfaction of the trial court and subject to the following conditions :

(1) That the appellant shall not enter the State of Gujarat until the final decision of their pending appeal(s) before this Court.

(2) That he shall reside in the District of Jabalpur, Madhya Pradesh, and report to the Police Station at Civil Lines, Jabalpur, on the first day of each calendar month.

(3) That he shall not leave the District of Jabalpur without obtaining permission from the learned District & Sessions Judge, Jabalpur.

(4) That he shall engage himself in any spiritual programme or do some social/community services for a minimum period of six hours in a week during the period of bail in view of the judgment and order passed by the this Court in the case of Babu Singh & Ors. vs. The State of Uttar Pradesh (supra).

It is further directed that Member Secretary of the Madhya Pradesh State Legal Services Authority shall produce a certificate before this Court stating therein that the appellant is regularly engaged in any of the aforesaid programme/services. The Madhya Pradesh State Legal Services Authority shall also assist the appellant for obtaining employment in the district of Jabalpur. The Madhya Pradesh State Legal Services Authority shall submit a report of the compliance of the above conditions and regarding general conduct of the appellant once in every three months initially.

Order accordingly.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR