

Bharatkumar Amratbhai Desai vs The State Of Gujarat on 10 February, 2025

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.....OF 2025
(@ SPECIAL LEAVE PETITION (CRL.) NO.16188/2024

BHARATKUMAR AMRATBHAI DESAI

APP

VERSUS

THE STATE OF GUJARAT

RESPO

O R D E R

Leave granted.

This appeal challenges the order dated 24.10.2024 passed by the High Court of Gujarat at Ahmedabad in Criminal Misc. Application(For Anticipatory Bail) No. 21293/2024.

Apprehending arrest in connection with the crime registered pursuant to FIR No.11216025240492 of 2024 dated 28.09.2024 lodged with PS Santej, District Gandhinagar in respect of the offences punishable under Sections 109, 189(2), 189(4), 191(2), 191(3), 190, 118(1), 117(2), 115(2), 324(4), 324(5), 351(3), 352, and 54 of Bhartiya Nyaya Sanhita, 2023; Section 25(1-b)(a) of the Arms Act, 1959; and Section 135 of the Gujarat Police Act, 1951, the appellant preferred an application before the High Court seeking anticipatory bail in terms of Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “BNSS”).

Said application for anticipatory bail having been rejected by the High Court vide impugned order dated 24.10.2024, the instant appeal has been preferred.

Vide order dated 25.11.2024, this Court issued notice in the instant matter.

We have heard learned senior counsel for the appellant in support of the appeal and learned counsel for respondent-State and perused the material on record.

Learned senior counsel appearing for the appellant submitted that the High court was not right in rejecting the relief of anticipatory bail to the appellant herein. The allegation was that the appellant, who is accused No.3, used an iron pipe to hit the injured and therefore, Section 307 of the Indian Penal Code, 1860 equivalent to Section 109 and connected provisions of the Bhartiya Nyaya Sanhita, 2023, Section 25(1-b) of the Arms Act, 1959 and Section 135 of the Gujarat Police Act, 1951, inter alia have been raised as against the appellant herein. He, however, submitted that in the short affidavit filed on behalf of the State of Gujarat, it has been categorically stated in paragraph 8 thereof that

accused No.3 was in fact at Surat, Gujarat on the fateful day. He therefore, submitted that having regard to this strong alibi in favour of the appellant herein, the relief of anticipatory bail may be granted by allowing his appeal.

Learned counsel for the respondent-State very fairly submitted that it has been stated at paragraph 8 in the short counter affidavit that the appellant herein was within the geolocation data/jurisdiction of Surat, Gujarat whereas the offence is said to have occurred in Ahmedabad. She therefore submitted that appropriate orders may be made in this appeal.

Considering the circumstances on record, in our view, the appellant is entitled to the relief claimed under Section 482 of BNSS.

We, therefore, allow this appeal and set aside the order dated 24.10.2024 passed by the High Court of Gujarat at Ahmedabad in Criminal Misc. Application(For Anticipatory Bail) No. 21293/2024.

We direct that in the event of arrest of the appellant, the Arresting Officer shall release the appellant on bail, subject to furnishing cash security in a sum of Rs.25,000/- (Rupees Twenty-Five Thousand only) with two like sureties.

It is directed that the appellant shall extend complete cooperation in the ensuing investigation.

The appellant shall not misuse his liberty and shall not in any way influence the witnesses or tamper with the material on record.

With the aforesaid directions, the appeal is allowed.

Pending application(s), if any, shall stand disposed of.

... .. , J (B . V . N A G A R A T H N A)
....., J (SATISH CHANDRA SHARMA) NEW DELHI
FEBRUARY 10, 2025 ITEM NO.3 COURT NO.7 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 PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.)
NO(S).16188/2024 [ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED
24-10- 2024 IN CRLMA NO. 21293/2024 PASSED BY THE HIGH COURT OF GUJARAT AT
AHMEDABAD] BHARATKUMAR AMRATBHAI DESAI PETITIONER(S) VERSUS THE STATE OF
GUJARAT RESPONDENT(S) (IA NO. 268173/2024 - EXEMPTION FROM FILING C/C OF THE
IMPUGNED JUDGMENT IA NO. 268175/2024 - EXEMPTION FROM FILING O.T.) Date :
10-02-2025 This matter was called on for hearing today. CORAM : HON'BLE MRS. JUSTICE B.V.
NAGARATHNA HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA For Petitioner(s): Mr.
I.H.Syed, Sr. Adv.

Mr. Varinder Kumar Sharma, AOR Mr. Amaan Syed, Adv.

For Respondent(s): Dr.Purvish Jitendra Melken, Sr. Adv.

Ms. Dhanita Melken, Adv.

Ms. Khushboo Aakash Sheth, AOR Ms. Deepanwita Priyanka, Adv.

Ms. Swati Ghildiyal, AOR Ms. Devyani Bhatt, Adv.

Mr. Rishi Yadav, Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is allowed in terms of the signed order, which is placed on file.

Pending application(s), if any, shall stand disposed of.

(B. LAKSHMI MANIKYA VALLI) (DIVYA BABBAR) COURT MASTER (SH) COURT MASTER
(NSH)