

2. Leave granted.

3. A prayer for grant of bail in Criminal Appeal arising out of SLP (Criminal) No. 11736 of 2024 has been sought by the appellant, namely, Sanjiv Kumar Rajendrabhai Bhatt.

4. The appellant has been convicted for the offence punishable under Sections 302, 323, 506(1) read with Sections 34 and 114 of the Indian Penal Code, 1860¹ *vide* judgment dated 20th June, 2019 passed by the Sessions Court, Jamnagar, Gujarat² in Sessions Case No. 148 of 2016. The appeal against the conviction, preferred by the appellant, was rejected by the High Court of Gujarat at Ahmedabad³ *vide* judgment dated 9th January, 2024, upon which the appellant preferred the instant criminal appeal, assailing his conviction and the sentence of life imprisonment, awarded to him by the trial Court.

5. Shri Kapil Sibal, learned senior counsel representing the appellant, vehemently and fervently

¹ Hereinafter, being referred to as 'IPC'.

² Hereinafter, being referred to as the 'trial Court'.

³ Hereinafter, being referred to as the 'High Court'.

contended that the entire prosecution case is false and unbelievable. The FIR⁴ of the alleged incident of custodial violence, leading to the death of Prabhudas Madhavji Vaishnani (deceased)⁵, was lodged after gross and unexplained delay. The deceased expired after 19 days of the alleged incident of custodial violence. Thus, the prosecution has failed to establish any live link between the so-called allegations of custodial violence/torture and the death of Prabhudas. The appellant has remained in custody for approximately 6 years and there is no possibility of the appeal being heard in the near future.

6. He further submitted that the cause of death as set out in the post mortem report of Prabhudas (deceased) is *Rhabdomyolysis*, which is a condition characterized by the breakdown of muscle tissue and hence, it cannot be said with any degree of certainty that the alleged episode of custodial beating/torture directly led to the death of Prabhudas (deceased).

⁴ FIR C.R. No. 102 of 1990.

⁵ Hereinafter referred as 'Prabhudas (deceased).'

7. He further submitted that the appellant suffered a protracted trial spread over a period of approximately 29 years. The appellant was on bail throughout the trial, and he did not misuse the said liberty granted to him. On these grounds, Shri Kapil Sibal urged that the appellant deserves indulgence of bail during pendency of the present appeal.

8. *Per contra*, Shri Maninder Singh, learned senior counsel, representing the State and Ms. Vanshaja Shukla, learned counsel representing the informant (brother of the deceased), vehemently opposed the submissions advanced by the learned counsel for the appellant. They urged that the appellant, who was a senior police officer, and the co-accused persons were primarily responsible for the delay in the trial of the case. Every dilatory tactic in the book was used to frustrate and prolong the trial so that the witnesses could be influenced and won over. The proceedings of the trial were frequently stalled on account of the stay orders passed in the numerous revisions/petitions filed by the appellant at the intermediary stages of the trial. Hence, the appellant is solely responsible for prolonging

the trial and thus, the argument that the appellant did not misuse the liberty of bail granted to him is not tenable.

9. It was further submitted that the complaint alleging the custodial violence against Prabhudas (deceased) was filed promptly and the delay, if any, is well explained. The deceased was subjected to brutal beating on the soles of his feet and was forced to undertake rigorous physical activity leading to failure of his kidneys/other vital organs which proved fatal. The appellant was the prime perpetrator of the said offence. They, thus, urged that the appellant, being a senior police officer, was under an obligation to protect the lives of the citizens, however, instead of obliging to the same, he turned rogue and misused his authority by subjecting the victim to grave custodial violence and torture, leading to his death.

10. They also urged that the medical evidence has clearly established a live link between the acts of custodial violence/torture committed upon Prabhudas (deceased) and his death owing to *Rhabdomyolysis*. The appellant, being a seasoned police officer, was having

full knowledge that subjecting Prabhudas (deceased) to beating on the soles of the feet and forcing him to undergo a strenuous physical activity over a prolonged period would lead to the breakdown of muscle tissue and could result in death. It is a known technique, deployed during custodial interrogation, which is intended to avoid leaving any marks/evidence of violence on the victim, wherein the fatalities, as in the present case, are very common consequences of such an action.

11. It was further submitted that the case of the prosecution has thoroughly been proved by the evidence of Amrutbhai Vaishnani (PW-27), the complainant and brother of the deceased; Rameshbhai Vaishnani (PW-28), brother of the deceased; and the witnesses PW-2 to PW-18 and so also, the medical experts PW-19 to PW-23, examined during the course of the trial.

12. They thus, urged that the appellant who is a very influential person and was responsible for delaying the trial, does not deserve the indulgence of bail during the pendency of the present appeal.

13. We have heard the submissions advanced at bar by both the parties on the prayer for grant of bail and have gone through the material placed on record.

14. The incident at hand took place way back in the year 1990. The allegation of the prosecution is that the appellant and the co-accused persons, had rounded up and detained Prabhudas (deceased) and various others (approximately 133 individuals) in connection with an incident of rioting.

15. The appellant being a seasoned police officer is alleged to have subjected Prabhudas (deceased) to extensive prolonged and debilitating physical activity and beating on the soles of feet leading to the breakdown of muscle tissue (*Rhabdomyolysis*) and ultimately, causing the death of Prabhudas.

16. This Court has been apprised that the trial of this case was delayed and could not be concluded for almost 29 years and that significant part of the said delay is attributable to the accused persons (including the present appellant) who filed repeated petitions and procured stay on the proceedings. This Court has also been apprised that the appellant has been convicted in

another case⁶ pertaining to planting of opium upon an advocate hailing from Rajasthan and has been sentenced to 20 years of imprisonment.

17. In this background and looking at the gravity and nature of the allegations, the position held by the appellant at the time of the incident and the overall facts and circumstances as permeating from the material available on record, we are not inclined to enlarge the appellant on bail during the pendency of the appeal. However, we make it clear that the observations made hereinabove are restricted to the prayer for bail only and will have no bearing on the appeals of the appellant and other co-accused.

18. Hence, the present prayer, sought by the appellant, namely, Sanjiv Kumar Rajendrabhai Bhatt, for grant of bail is dismissed as being devoid of merit.

19. Hearing of the appeal is expedited.

⁶ The Gujarat Court has convicted the appellant (Sanjiv Kumar Rajendrabhai Bhatt) for the offences punishable under Section 21(C); read with Section 27 A (punishment for financing illicit traffic and harbouring offenders) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'), along with allied sections of the NDPS Act and IPC.

Crl. Appeals @ SLP(Crl.) No(s). 3587-3588 of 2024
Crl. Appeal @ SLP(Crl.) No(s). 3957 of 2024
Crl. Appeal No(s) @ SLP(Crl.) No(s). 9462 of 2024

- 20. Leave granted.
- 21. Hearing expedited.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
APRIL 29, 2025.