



ITEM NO.3

COURT NO.4

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 (Cr1.) No(s). 4208/2022

(Arising out of impugned final judgment and order dated 04-04-2022 in CRLA No. 92/2022 passed by the High Court Of Gujarat At Ahmedabad)

VARYAVA ABDUL VAHAB MAHMOOD

Petitioner(s)

VERSUS

THE STATE OF GUJARAT &amp; ANR.

Respondent(s)

IA No. 66862/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 73688/2022 - EXEMPTION FROM FILING O.T.

IA No. 66863/2022 - EXEMPTION FROM FILING O.T.

IA No. 73687/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

WITH

SLP(Cr1) No. 8492/2022 (II-B)

(FOR ADMISSION and I.R. and IA No.133756/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.133757/2022-EXEMPTION FROM FILING O.T.)

Date : 17-02-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH  
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s) Mr. Dushyant A. Dave, Sr. Adv.

Mr. Haris Beeran, Adv.

Mr. Mushtaq Salim, Adv.

Mr. Azhar Assees, Adv.

Mr. Radha Shyam Jena, AOR

Mr. I.H. Syed, Sr. Adv.

Mr. Purvish Jitendra Malkan, AOR

Ms. Dharita Purvish Malkan, Adv.

Mr. Alok Kumar, Adv.

Ms. Nandini Chhabra, Adv.

Ms. Deepa Gorasia, Adv.

Ms. Bhavna Sarkar, Adv.

Mr. Aniq A Kadri, Adv.

Mr. Vishrut Bhandari, Adv.

Mr. Dr. Ram Kishor Choudhary, Adv.

Mr. Avinash Kumar Bharti, Adv.

For Respondent(s) Mr. Rajat Nair, Adv.  
Mr. Kanu Agrawal, Adv.  
Ms. Swati Ghildiyal, AOR  
Ms. Devyani Bhatt, Adv.  
  
Ms. Sonia Mathur, Sr. Adv.  
Mr. Nachiketa Joshi, AOR  
Ms. Himadri Haksar, Adv.  
Mr. Ajay Shukla, Adv.

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

SLP (Cr1.) No. 4208/2022:

Before the High Court, the petitioner prayed for the anticipatory bail. The same has been rejected by the High Court, against which the present Special Leave Petition has been filed.

The petitioner is accused of committing the offences punishable under Section 4 of the Freedom of Religion Act and Section 120B, 153(B)(1)(c) and 506(2) of the IPC.

By order dated 13.05.2022, the petitioner has been protected and it is ordered that no coercive steps shall be taken against him to take him into custody. The said protection has been continued till date. Thereafter, as it was apprehended that the petitioner is not cooperating after the aforesaid interim protection and has not remained present before the concerned Investigating Agency, this Court passed the following order on 13.01.2023.

“Learned counsel appearing for the respondent-State of Gujarat has made a very serious grievance that the petitioner, after obtaining the interim protection from this Court and even prior thereto, is absconding and not cooperating in the investigation and has never appeared before the concerned Investigating Agency/Officer.

He has also stated at the Bar that there is ample material collected during the course of the investigation against the petitioner that through

him the money was routed and he helped the religious conversion. It is submitted that during the course of investigation, it has been found that money routed through the petitioner from various persons have been used for the converted people, who, as such, were converted by luring.

Before we consider the allegations and the counter allegations against the petitioner and the material collected, let the petitioner first appear before the concerned Investigating Agency/Officer - Aamod Police Station, Bharuch between 16.01.2023 to 20.01.2023 at 11.00 A.M. everyday for the purpose of interrogation/investigation. That thereafter, the matter shall be considered on merits.

Put up on 13.02.2023."

It is reported that thereafter the petitioner has appeared before the I.O. every day and he has been interrogated.

Mr. Kanu Agrawal, learned counsel appearing for the State has submitted that though the petitioner is subjected to interrogation, however, he is giving evasive replies, which is refuted by Mr. Dushyant Dave, learned Senior Advocate, appearing for the petitioner. Learned counsel for the State has also stated that, in that view of the matter, the custodial investigation of the petitioner is required.

Having heard Mr. Dushyant Dave, learned Senior Advocate, appearing for the petitioner and Mr. Kanu Agarwal, learned counsel, appearing for the State and in the facts and circumstances of the case narrated herein above and the fact that the petitioner has been protected by interim order since 13.05.2022 and thereafter has appeared before the Investigating Agency as per the subsequent order passed by this Court, we deem it proper to confirm the ad-interim order passed earlier and direct that, in case of arrest of the petitioner, he be released on bail on the terms and conditions,

which may be imposed by the learned trial Court.

It goes without saying that if the State/Investigating Agency is of the opinion that the custodial investigation is required, in that case, it will be open for the Investigating Agency to move an appropriate application before the concerned Court and the present order shall not come in the way of the Investigating Agency.

It goes without saying that, as and when such an application is made, the same be considered by the concerned Court in accordance with law and on its own merits and after giving an opportunity to the petitioner.

With this, the Special Leave Petition stands disposed of.

We make it clear that, however, we have not made any observation on merits whether the Investigating Agency should be granted the permission for custodial investigation or not. It is ultimately for the concerned Court to pass appropriate order in accordance with law and on its own merits.

Pending applications stand disposed of.

SLP(Cr1) No. 8492/2022:

List on 27.02.2023.

(R. NATARAJAN)  
ASTT. REGISTRAR-cum-PS

(NAND KISHOR)  
COURT MASTER