

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION NO. 8894 of 2020

With

CRIMINAL MISC.APPLICATION (FOR INTERIM RELIEF)

NO. 1 of 2020

In

R/SPECIAL CRIMINAL APPLICATION NO. 8894 of 2020

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MOHMMAD KALEEM TAUFIQ AHMED SIDDIQUI

Versus

STATE OF GUJARAT

and

ASSISTANT COMMISSIONER OF POLICE, 'A' DIVISION,
AHMEDABAD CITY

=====

Appearance:

MR A J YAGNIK, ADVOCATE for the Applicant

MR HARDIK SONI, APP for the Respondents

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CORAM: HONOURABLE MR. JUSTICE PARESH UPADHYAY

Date : 26/08/2021

CAV ORDER

1. Challenge in this petition is made to the order passed by the Assistant Commissioner of Police, 'A' Division, Ahmedabad City dated 13.11.2020, whereby the present petitioner is externed for a period of one year from several districts - Ahmedabad (City and Rural), Gandhinagar, Kheda and Mehsana. The said order is stated to have been passed in exercise of powers under Section 56(b) of the Gujarat Police Act, 1951.

2. The execution of the impugned order was stayed by this Court vide order dated 01.03.2021, for the reasons recorded therein.

3. Affidavit in reply dated 01.07.2021 is on record.

4. Heard learned advocate for the petitioner and learned Additional Public Prosecutor for the respondent Authorities. It is noted that, both the learned advocates have addressed the Court at length and have extensively taken this Court through the material on record.

5. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds as under :

5.1 The notice for externment was given to the petitioner considering two FIRs. One is registered with Ramol Police Station being C.R. No.141 of 2018 dated 21.01.2018 and second is registered with Rakhial Police Station being C.R.No.83 of 2019 dated 19.12.2019.

5.2 The externment order is based on four FIRs, two of which were not even referred to in the notice. The externment order

therefore needs to be set aside on this count alone.

5.3 There are other factors as well, which further tilts the balance in favour of the petitioner. They are as under.

5.3.1 Out of two FIRs reference to which is made in the notice, qua the FIR of the year 2018, the petitioner was already acquitted.

5.3.2 So far the second FIR dated 19.12.2019 is concerned, it was against a crowd of unknown persons who were demonstrating against the policy of the Government qua NRC / CAA. The petitioner is stated to be one of the persons in the said crowd.

5.3.3 Citizen can not be subjected to externment for raising his grievance against the Government. On this count also, the externment order needs to be set aside.

5.4.1 As noted above, in the externment order, four FIRs are taken into consideration, two of which were not even referred to in the notice. In the concluding line of Para : 7 of the affidavit in reply, the inclusion of those two FIRs is sought to be answered as - 'typographical error in the externment order dated 13.11.2020'. EB COPY

5.4.2 The defense like this needs to be rejected.

6. In view of above, the following order is passed.

6.1 This petition is allowed.

6.2 The impugned order passed by the Assistant Commissioner of Police, 'A' Division, Ahmedabad City dated 13.11.2020 is quashed and set aside.

6.3 Rule is made absolute in above terms.

7. Interim application would not survive and is disposed of accordingly.

(PARESH UPADHYAY, J)

M.H. DAVE/2

