

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). 6166/2023

(Arising out of impugned final judgment and order dated 15-02-2023 in SCRA No. 963/2023 passed by the High Court of Gujarat at Ahmedabad)

MAFABHAI MOTIBHAI SAGAR

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.98352/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.98353/2023-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 06-10-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s)

Mr. Rauf Rahim, AOR
Mr. Ali Asghar Rahim, Adv.

For Respondent(s)

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

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

After a long delay, the respondent State Government has ultimately passed an order dated 15th September, 2023 of granting permanent remission to the petitioner. However, four conditions have been imposed, while doing so. *Prima facie*, we find that condition Nos.1 to 3 could not have been imposed after coming to the conclusion that this was a fit case to exercise power of the State Government under Section 432 of the Code of Criminal

Procedure, 1973. Apart from the question of the authority of the State to impose such conditions, other important question is whether the grant of remission can be conditional which is open to revocation, as provided in the second condition.

The learned counsel appearing for the respondent-State seeks time to file an affidavit for justifying these conditions. Apart from filing an affidavit, the State will have to satisfy us whether such conditions can be lawfully imposed and whether the policy of the State Government provides for incorporating such conditions.

While filing the affidavit, the State Government must also explain the normal time span taken by it to consider the cases for the grant of permanent remission. The State will also inform the Court whether a specific time line has been prescribed for taking decisions on the prayer for grant of permanent remission. The State Government will also point out before the Court how many Writ Petitions are pending in the constitutional Courts making grievances about the non-consideration of the prayer for grant of remission.

To enable the State to file an affidavit, list on 24th November, 2023.

The affidavit to be filed by 22nd November, 2023.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER