

**(2020) 3 Supreme Court Cases 341 : (2020) 2 Supreme Court Cases (Cri) 61 :
2020 SCC OnLine SC 109**

In the Supreme Court of India

(Record of Proceedings)

(BEFORE S.A. BOBDE, C.J. AND B.R. GAVAI AND SURYA KANT, JJ.)

PRAHLADBHAI JAGABHAI PATEL AND ANOTHER . . Appellants;

Versus

STATE OF GUJARAT . . Respondent.

Criminal Appeals No. 196 of 2018[±] with Nos. 692 of 2019 and 140 of 2020, decided
on January 28, 2020

A. Criminal Procedure Code, 1973 – S. 389 – Bail during pendency of appeal – When warranted – Factors to be considered – Conduct of accused concerned and their antecedents – Conditional bail granted, including to stay out of State concerned, to engage themselves in spiritual programme or social/community service for minimum of six hours per week, during period of bail

– The appellants have been released on temporary bail, furlough and parole on several occasions – The period for which they have been out of custody under the said arrangements ranged from 190 to 660 days – There is no report of their having misconducted themselves or indulged in any criminal activities – None of the appellants have criminal antecedents – It will be appropriate in the circumstances to direct release of appellants on bail – Accordingly, during pendency of this appeal, appellants are directed to be released on bail subject to conditions – Accused to engage themselves in any spiritual programme or do some social/community services for a minimum period of six hours in a week during period of bail – M.P. State Legal Services Authority shall also assist appellants for obtaining employment in District of Indore

(Paras 2 to 14)

B. Criminal Procedure Code, 1973 – S. 389 – Bail during pendency of appeal – Factors to be considered – Appellant aged about 65 yrs and has been in jail for about 7 yrs – Bail granted during pendency of appeal – Conditions imposed

(Paras 17 to 19)

C. Criminal Procedure Code, 1973 – S. 389 – Bail during pendency of appeal – Interim relief – Punitive harshness should be minimised and restorative devices to redeem the man, even through community service, meditative drill, etc. should be innovated

(Paras 4 and 5)

Babu Singh v. State of U.P., (1978) 1 SCC 579 : 1978 SCC (Cri) 133, affirmed

J-D/63576/CR

Advocates who appeared in this case :

P.S. Patwalia, Senior Advocate [Siddhesh Kotwal, Ms Bansuri Swaraj, Ms Arshiya Ghose, Divyansh Tiwari, Ms Ana Upadhyay, Ms Harshika Verma, Akshay Chaddha, Ms Astha Sharma (Advocate-on-Record), Nikhil Goel, Ms Naveen Goel and Aniruddha Deshmukh (Advocate-on-Record), Advocates] for the Appellants;



Tushar Mehta, Solicitor General [Ms Manisha Lav Kumar, Aniruddha P. Mayee (Advocate-on-Record) and A. Rajarajan, Advocates] for the Respondent.

1. (1978) 1 SCC 579 : 1978 SCC (Cri) 133, *Babu Singh v. State of U.P.*

342d, 343c, 344b, 344

ORDER

IA No. 29794 of 2019 — (Grant of bail) in Crl. A. No. 1286 of 2018^{±±}

1. We have heard Mr P.S. Patwalia, learned Senior Counsel for the appellants and Mr Tushar Mehta, learned Solicitor General appearing for the respondent State and perused the record.

2. It is stated that the appellants have been released on temporary bail, furlough and parole on several occasions. The period for which they have been out of custody under the said arrangements ranged from 190 to 520 days. There is no report of their having misconducted themselves or indulged in any criminal activities.

3. It is not disputed that none of the appellants have criminal antecedents. Further, we find that these appellants have been found guilty by the appellate court on the deposition of one witness.

4. We may gainfully refer to para 19 of the decision of this Court in *Babu Singh v. State of U.P.*[±]: (SCC pp. 585-86)

“19. A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offences while on judicially sanctioned “free enterprise”, should be provided against. No seeker of justice shall play confidence tricks on the Court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our Constitution.”

5. It could, thus, be seen that this Court has held that punitive harshness should be minimised and restorative devices to redeem the man, even through community service, meditative drill, etc. should be innovated. We, therefore, find that it will be appropriate in the circumstances to direct the release of the appellants on bail. While doing so, we also find appropriate that the appellants be directed to engage in any spiritual programme or to do some social/community services.



6. Accordingly, during the pendency of this appeal, the appellants are directed to be released on bail on furnishing bail bonds in the sum of Rs 25,000 (Rupees twenty-five thousand only) each with two sureties of the like amount to the satisfaction of the trial court and subject to the following conditions:

(1) That the appellants shall not enter the State of Gujarat until the final decision of their pending appeal(s) before this Court.

(2) That they shall reside in the District of Indore, Madhya Pradesh, and report to the Police Station at Palasia, Indore, on the first day of each calendar month.

(3) That they shall not leave the District of Indore without obtaining permission from the learned District & Sessions Judge, Indore.

(4) That the appellants shall engage themselves in any spiritual programme or do some social/community services for a minimum period of six hours in a week during the period of bail in view of the judgment and order passed by this Court in *Babu Singh v.*

*State of U.P.*¹

7. It is further directed that Member-Secretary of the Madhya Pradesh State Legal Services Authority shall produce a certificate before this Court stating therein that the appellants are regularly engaged in any of the aforesaid programme/services. The Madhya Pradesh State Legal Services Authority shall also assist the appellants for obtaining employment in the District of Indore.

8. The Madhya Pradesh State Legal Services Authority shall submit a report of the compliance of the above conditions and regarding general conduct of the appellants once in every three months initially.

9. In view of the above, the interlocutory application for bail stands allowed.

Criminal Appeal No. 692 of 2019 – Only prayer for interim relief

10. We have heard Mr P.S. Patwalia, learned Senior Counsel for the appellants and Mr Tushar Mehta, learned Solicitor General appearing for the respondent State and perused the record.

11. The facts in the present case are almost identical with the facts in IA No. 29794 of 2019. The appellants have been released on temporary bail, furlough and parole on several occasions. The period for which they have been out of custody under the said arrangements ranged from 244 to 660 days. There is no report of their having misconducted themselves or indulged in any criminal activities. It is not disputed that none of the appellants have criminal antecedents.

12. In these circumstances, we consider it appropriate in the interests of justice to direct the release of the appellants on bail.

13. Accordingly, during the pendency of this appeal, the appellants are directed to be released on bail on furnishing bail bonds in the sum of Rs 25,000 (Rupees twenty-five thousand only) each with two sureties of the like amount to the satisfaction of the trial court and subject to the following conditions:

(1) That the appellants shall not enter the State of Gujarat until the final decision of their pending appeal(s) before this Court.



(2) That they shall reside in the District of Jabalpur, Madhya Pradesh, and report to the Police Station at Civil Lines, Jabalpur, on the first day of each calendar month.

(3) That they shall not leave the District of Jabalpur without obtaining permission from the learned District & Sessions Judge, Jabalpur.

(4) That the appellants shall engage themselves in any spiritual programme or do some social/community services for a minimum period of six hours in a week during the period of bail in view of the judgment and order passed by this Court in *Babu Singh v. State of U.P.*¹

14. It is further directed that Member-Secretary of the Madhya Pradesh State Legal Services Authority shall produce a certificate before this Court stating therein that the appellants are regularly engaged in any of the aforesaid programme/services. The Madhya Pradesh State Legal Services Authority shall also assist the appellants for obtaining employment in the District of Jabalpur.

15. The Madhya Pradesh State Legal Services Authority shall submit a report of the compliance of the above conditions and regarding general conduct of the appellants once in every three months initially. Ordered accordingly.

Criminal Appeal No. 140 of 2020 – Only prayer for interim relief

16. We have heard Mr Nikhil Goel, learned counsel for the appellant and Mr Tushar Mehta, learned Solicitor General appearing for the respondent State and perused the

record.

17. The facts in the present case are also identical with the facts in the earlier two cases. The appellant is aged about 65 years and has been in jail for about 7 years. Further, we find that the appellant has been found guilty by the appellate court on the depositions of two witnesses.

18. In these circumstances, we consider it appropriate in the interests of justice to direct the release of the appellant on bail.

19. Accordingly, during the pendency of this appeal, the appellant is directed to be released on bail on furnishing bail bonds in the sum of Rs 25,000 (Rupees twenty-five thousand only) with two sureties of the like amount to the satisfaction of the trial court and subject to the following conditions:

(1) That the appellant shall not enter the State of Gujarat until the final decision of their pending appeal(s) before this Court.

(2) That he shall reside in the District of Jabalpur, Madhya Pradesh, and report to the Police Station at Civil Lines, Jabalpur, on the first day of each calendar month.

(3) That he shall not leave the District of Jabalpur without obtaining permission from the learned District & Sessions Judge, Jabalpur.

(4) That he shall engage himself in any spiritual programme or do some social/community services for a minimum period of six hours in a week



Page: 345

during the period of bail in view of the judgment and order passed by the this Court in *Babu Singh v. State of U.P.*¹

20. It is further directed that Member-Secretary of the Madhya Pradesh State Legal Services Authority shall produce a certificate before this Court stating therein that the appellant is regularly engaged in any of the aforesaid programme/services. The Madhya Pradesh State Legal Services Authority shall also assist the appellant for obtaining employment in the District of Jabalpur.

21. The Madhya Pradesh State Legal Services Authority shall submit a report of the compliance of the above conditions and regarding general conduct of the appellant once in every three months initially. Ordered accordingly.

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[†] Arising from the Final Judgment and Order in *Patel Rameshbhai Kanjibhai v. State of Gujarat*, 2016 SCC OnLine Guj 2841 (Gujarat High Court, Criminal Appeal No. 1 of 2012, dt. 20-10-2016)

^{††} Arising from Judgment and Order in *Vijaybhai Ravjibhai Patel v. State of Gujarat*, 2018 SCC OnLine Guj 4770 (Gujarat High Court, Criminal Appeal No. 749 of 2012, dt. 11-5-2018)

¹ *Babu Singh v. State of U.P.*, (1978) 1 SCC 579 : 1978 SCC (Cri) 133