

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 (Crl.) No(s).9334/2025

[Arising out of impugned final judgment and order dated 12-06-2025 in SCRA No. 5349/2025 passed by the High Court of Gujarat at Ahmedabad]

ASHWINKUMAR GOVINDBHAI PRAJAPATI

Petitioner(s)

VERSUS

STATE OF GUJARAT & ANR.

Respondent(s)

(IA No. 148847/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 148848/2025 - EXEMPTION FROM FILING O.T.)

Date : 25-06-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) : Mr. Siddharth H. Dave, Adv.
Mr. Prafull Bhardwaj, Adv.
Mr. Maulik Soni, Adv.
Mr. Siddhant Sharma, AOR

For Respondent(s) :

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

1. This special leave petition raises a question of grave public importance. The question is whether at all and if so under what circumstances can the Investigating Agencies directly issue summon to question a counsel who is appearing for a party in a given case. The matter arises this way. The petitioner is a practicing Advocate having enrolled in 1997. He regularly appears and practiced before all the Courts across the State of Gujarat. The petitioner is also the President of Vastral Advocates Association in Gujarat.

2. It appears that on 24.06.2024 an agreement was executed

between one Parmar Kamleshkumar Amratlal and one Panchal Princekumar Bhavanishankar pertaining to a loan transaction. It further transpires that on 13.02.2025 an FIR bearing No.11191037250276 of 2025 was lodged at Odhav Police Station, Ahmedabad, Gujarat under Sections 296(b) and 351(3) of Bharatiya Nyaya Sanhita, 2023 and Sections 40, 42(a), 42(d) and 42(e) of Gujarat Money-Lenders Act, 2011 as well as under Sections 3(2)(v), 3(2)(va) of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In respect of the said FIR, Panchal Princekumar Bhavanishankar was arrested on 25.02.2025.

3. The petitioner, on behalf of his client Panchal Princekumar Bhavanishankar, filed regular bail application bearing Criminal Misc. Application No.1399 of 2025 before the learned Sessions Court at Ahmedabad and after due consideration, the Court granted regular bail to the accused.

4. When the matter stood thus, on 24.03.2025, a notice was served on the petitioner under Section 179 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (in short, the "BNSS"). The said notice set out the FIR details mentioned above and stated that to know the true details of facts and circumstances, the petitioner was asked to appear at the office of Mr. D.R. Patel, Assistant Commissioner of Police, SC/ST Cell - 2, Ahmedabad City within three days from the date of receipt of the notice. The petitioner challenged the said notice before the High Court by filing R/Special Criminal Application (Quashing) NO.5349/2025. The said notice is extracted hereinbelow:

"OFFICE OF THE ASSISTANT COMMISSIONER OF

POLICE
S.C.S.T. Cell-02, Karanj Bhavan,
Ahmedabad City,
Phone NO.079-25511054
Email-scst-ahd@gujarat.gov.in

NOTICE AS PER SECTOIN 179 OF THE B.N.S.S.

You are hereby informed by giving this notice that, the complaint is registered on 13/02/2025 at Odhav Police Station, vide Odhav Police Station No.111911037250276/2025 as per Section FIR 296(B), 351(3) of B.N.S.S. and as per section 40, 42(A),(D), E), of the Gujarat Money Laundering Act, 2011 per section 3(2)(5) of the Atrocity Act, and, as the accused Princekumar Bhavanishankar Pancha! Residing at; A-25, Sundarvan Society, Ahmedabad, and Near accused Nirant Chokdi, Princekumar Vastal son of Bhavanishankar Bhagwanji Panchai, Age: 31 years, Occ: Business, residing at House NO. A-25, Sundavrvan Society, Smarajy Tenement, Opp. Avadh Hospital, Metro Pillar NO..139, Native: Nirant Chokdi, Vastral, Ahmedabad, Vilalge Padra, Ta. Sagwada, Dist. Dungarpur (rajastha), the accused of the complainant Kamieshbha Amratbhal Parmar, Age: 41 years, of this matter, and, I am doing the Investigation of the same. In this regard since, it is necessary to know the true details of the facts and circumstances after making your inquiry, therefore, you are hereby Informed to appear at this office within 3 days from the date of receipt of this notice.

Date-24/03/2025.

Sd/- illegible
(D.R. Patel)
Assistant Commissioner of Police,
S.C.S.T. Cell-02, Ahmedabad city.

To
Ashwin G. Prajapati (Advocate)
Office F.F./3, Marutlnandan Shopping Centre,
Copy Daiyr, Mahadev Nagar, Vastral Road,
Ahmedabad.
Mob. No.99989344114, 9724170600"

5. By the impugned order, the said petition has been dismissed after perusing a report dated 11.04.2025 prepared by the said Shri D.R. Patel, which stated that the petitioner did not respond to the summon and due to his non-cooperation, further investigation is

stalled. The High Court held that since the summon has been served under Section 179 of BNSS in the capacity of witness and the authorities have power to investigate, there was no violation of fundamental rights of the petitioner. Aggrieved, the petitioner has filed this special leave petition.

6. We have heard Mr. S.H. Dave, learned counsel for the petitioner. Learned counsel contends that the petitioner was neither an accused nor a witness and was only discharging his role as an Advocate of the accused in the said case. The FIR pertains to a dispute between the complainant and the accused and the petitioner has no connection beyond his role as a lawyer for the accused. According to the learned Counsel, communications between an Advocate and a client which are privileged under Section 132 of the Bhartiya Sakshya Adhiniyam, 2023 (corresponding to Section 126 of the Indian Evidence Act, 1872) cannot be subject-matter of any enquiry under 179 or under any other provisions of BNSS. Learned counsel submits that the Advocates are bound by professional duty to maintain the confidentiality of client communication and advice provided to the client. Mr. S.H. Dave submits that permitting the Investigating Agencies/Prosecuting Agency/Police to summon Advocates who are engaged as counsel in the case or who have advised parties impinge upon the rights of the Advocates apart from seriously threatening the autonomy of the legal profession.

7. *Prima facie*, we find merit in the said submission. The legal profession is an integral component of the process of administration of justice. Counsel, who are engaged in their legal practice apart from their fundamental rights under Article 19(1)(g)

of the Constitution of India, have certain rights and privileges guaranteed because of the fact that they are legal professionals and also due to statutory provisions like Section 132 of BSA. Permitting the Investigating Agencies/Prosecuting Agency/Police to directly summon defence counsel or Advocates, who advise parties in a given case would seriously undermine the autonomy of the legal provision and would even constitute a direct threat to the independence of the administration of justice.

8. In view of this important issue, which is arising in this case, we feel that this is a case where notice need to be issued to the learned Attorney General for India, learned Solicitor General of India, the Chairman, Bar Council of India and for the time being to the President/Executive Committee of the Supreme Court Bar Association and to the President/Executive Committee of the Supreme Court Advocates-on-Record Association to assist the Court in addressing this important question. Ordered accordingly. Some of the questions which arise for consideration are:

(i) When an individual has the association with a case only as a lawyer advising the party, could the Investigating Agency/Prosecuting Agency/Police directly summon the lawyer for questioning?

(ii) Assuming that the Investigating Agency/Prosecuting Agency/Police has a case that the role of the individual is not merely as a lawyer but something more, even then should they be directly permitted to summon or should judicial oversight be prescribed for those exceptional criterion of cases?

9. Both these issues and such other issues as may arise would

have to be addressed on a comprehensive basis because what is at stake is the efficacy of the administration of justice and the capacity of the lawyers to conscientiously and fearlessly discharge their professional duties. This is a matter directly impinging on the administration of justice. Hence, subjecting the Counsel in a case to the beck and call of the Investigating Agency/Prosecuting Agency/Police *prima facie* appears to be completely untenable.

10. In view of the importance of the matter, let the papers be placed before Hon'ble the Chief Justice of India for passing such directions as His Lordship may deem appropriate. As far as the present matter is concerned, till further orders, the respondent-State is restrained from summoning the petitioner and there shall be stay of operation of the notice dated 24.03.2025 or such other subsequent notices that may have been issued to the petitioner.

11. Issue notice to the respondents. Let notice also be issued as directed in Para 8 hereinabove.

12. Let the matter be placed before Hon'ble the Chief Justice of India.

(ARJUN BISHT)
ASTT. REGISTRAR-cum-PS

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)