

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 970 of 2023**

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KALIMAHMED @ KALIM MULLA MOHAMMAD HABIB KARIMI
Versus
STATE OF GUJARAT & ORS.

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Appearance:

AKASH A SINGH(8713) for the Applicant(s) No. 1

MR ARJUN M JOSHI(11247) for the Applicant(s) No. 1
for the Respondent(s) No. 2,3

MS MAITHILI MEHTA, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 02/07/2024**ORAL ORDER**

1. At the outset, learned advocate Mr. Arjun M. Joshi tenders a amendment amendment, the same is taken on record and granted.

2. Heard learned advocate Mr.Arjun M. Joshi for the petitioner and learned APP Ms.Maithili Mehta for the respondent No.1-State.

3. In view of the pending application preferred by the present application for seeking remission, learned APP Ms.Mehta, upon instructions, states that an Affidavit in reply, which the State has intention to file, would be filed within a

day or two and, therefore, a request was made to adjourn the matter.

4. Learned Advocate Mr.Arjun M. Joshi for the petitioner submitted that considering the fact that the Hon'ble Supreme Court has directed to expedite the hearing of the matter. At least, till the application of the petitioner is decided, he may be enlarged on parole leave as the same has been done by the Hon'ble Supreme Court in other similar cases.

5. The aforesaid statement about the Hon'ble Supreme Court's Orders in other cases, whereby, on account of pendency of application for remission, the accused person was granted parole, could not be disputed by the Learned APP Ms.Mehta.

6. Ms. Mehta placed on record the jail record of the present applicant and indicates that considering the aforesaid jail record, the petitioner's case may be considered recording her strong objection in grant of parole.

7. I have heard the learned advocates of both the parties and perused the record.

8. Considering the fact that it is not in dispute that in similar cases, Hon'ble Supreme Court in case of **Mafabhai Motibhai Sagar vs. State of Gujarat and others**, while passing the order dated 11.09.2023 in **Special Leave to Appeal (Crl.) No. 6166 of 2023** as the State took considerable long time to consider the prayer of premature release of the petitioner, the Hon'ble Supreme Court has enlarged the accused-Applicant on parole on appropriate terms and conditions.

9. This Court finds that in the instant case also as the petitioner's case for remission is pending since long and still according to learned APP, some more time is likely to consume by the State in arriving at a decision upon the application made by the petitioner, therefore, the Court deems it fit and appropriate to enlarge the present applicant on parole for a period of 8 weeks from today on usual terms and conditions.

10. Direct service is permitted. Stand over to **03.09.2024**.

MOHD MONIS

(NIRZAR S. DESAI,J)