

IN THE HON'BLE CITY CIVIL AND SESSIONS COURT AT
BHADRA, AHMEDABAD

CRIMINAL MISC. APPLICATION NO. 4617 OF 2022

(An application under Section 439 of Code of Criminal Procedure for regular bail in connection with FIR dated 25/06/2022 being C.R. No. 111910122087 of 2022 registered with DCB Crime Branch Police Station, Ahmedabad City.)

AFFIDAVIT-IN-REPLY ON BEHALF OF RESPONDENT

IN THE MATTER:

Teesta Atul Setalvad

--- Applicant

VERSUS

State of Gujarat

--- Respondent

MOST RESPECTFULLY SHOWETH THAT:

I, Baldevsinh C Solanki, aged about 64 years, discharging the duty as Assistant Commissioner of Police and Investigating Officer of the Special Investigation Team (constituted by the order of DG & IGP Gujarat for investigation of FIR dated 25/06/2022 being C.R. No. 111910122087 of 2022 registered with DCB Crime Branch Police Station, Ahmedabad City), herein, do hereby solemnly affirm and state on oath as under:

1. That I have perused the copy of the application and am conversant with the facts of the case as deponent herein is the Investigating Officer of the case in which bail is being prayed by the petitioner.
2. I state that I do not admit any of the allegations, averments and contentions raised in the application and the same are hereby denied categorically.

3. The deponent say and submit that that I am filing the present affidavit-in-reply and I reserve my right to file detailed reply on merits in case of need.

4. The deponent say and submit that the grounds raised by the petitioner are without any merit and the prayer of the petitioner shall be rejected on the basis of facts stated herein-below, along-with grounds that may be submitted at the time of hearing of the present application, inter-alia others:

A. That the claim of the applicant that the impugned FIR is prohibited in law, being subsequent and 2nd FIR in respect of same facts and offences, is contrary to the established provisions of law. Applicant has claimed in the application that the impugned FIR refers to the order of Hon'ble Gujarat High Court dated 11.07.2011 passed in Cr.M.A. No. 1692 of 2011, arising out of FIR registered in Navrangpura Police Station in which applicant has been granted anticipatory bail by Ld. Sessions Court. On the contrary perusal of the facts stated in the FIR and the facts disclosed during investigation of this case clearly outline that the applicant is directly involved in a case of larger conspiracy wherein various offences have been committed by the applicant and others.

B. It has emerged that various offences have been committed by all those involved by the abuse of process 'for ulterior design', which clearly reflects that this is a case of 'larger conspiracy', and therefore, contrary to the claim of the applicant, present FIR does not violate any provision of law. I say and submit that the present FIR is distinct and separate. I also say that present FIR is purely for the offences committed by accused persons states in the FIR as well as others who are either supporters or are masters of accused persons and not only on the basis

of the Honourable Supreme Court's judgement as alleged by different accused before different forums since their arrest.

- C. That ocular and documentary evidence collected by the present Special Investigation Team (SIT constituted to investigate the present FIR) in this brief period of investigation provide ample grounds to support the allegation of larger conspiracy by the present applicant, other persons and those who may be found out during investigation have committed offence to achieve political, financial and other material benefits by means of executing a well thought of larger conspiracy.
- D. That the political objective of the applicant while enacting this larger conspiracy, was dismissal or destabilisation of the elected government in Gujarat by hook or by crook, for which the applicant had obtained illegal financial and other benefits and rewards from the rival political party in lieu of her attempts to wrongly implicate and prosecute various authorities and other innocent persons in the State of Gujarat, including the then Chief Minister. This larger conspiracy had been hatched by the accused persons with political motives as clearly outlined in the statements of two witnesses as of now as investigation is in progress.
- E. That the statements of these two witnesses establish that the conspiracy was enacted by the present applicant, along-with other accused persons, at the behest of Late Shri Ahmed Patel, the then Member of Parliament from Rajya Sabha and Political Advisor to the President of the Indian National Congress. The applicant had started to act as a part of this conspiracy from the very beginning, as just few days after Godhra Train incident the applicant had held meetings with Late Shri Ahmed Patel and had received Rs. 5 Lakh at the first instance, where the money was given to her by one witness on the instructions of Late Shri Ahmed Patel. Two days later, in a meeting conducted at the Government Circuit House Shahibaug between Late

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Shri Ahmed Patel and the applicant, by the said witness had handed over Rs. 25 Lakh more to the applicant on the instruction of Late Shri Ahmed Patel. This cash money given to the applicant was not part of any relief related corpus as all relief material in the form of food materials and other essential commodities was provided across Gujarat by one Gujarat Relief Committee. The presence of several political leaders at Shahibaug Circuit House during the period of this meeting of the applicant including that of Late Shri. Ahmed Patel is corroborated by material collecting in the investigation. The one witness, had stated that within a week of the Godhra riots, when he and the applicant had come to Ahmedabad and had visited various relief camps and areas, applicant had been having several meetings with various political functionaries. It is pertinent to note here that applicant's meetings with Mr. R.B. Sreekumar, the then ADGP Armed Unit and Mr. Sanjiv Bhatt, the then DCI Security of the State Intelligence Bureau had no connection as to any relief work as these officers by capacity of their positions were not involved in any relief work. Statements of these two witnesses further reflect that meetings were also held at the New Delhi residence of Late Shri Ahmed Patel where the applicant and the other accused person, Sanjiv Bhatt, had met Shri. Ahmed Patel approximately four months after the riots in a clandestine manner. The witness statements recorded shows that on various occasions when Teesta Setalvad and Sanjiv Bhatt used to meet at the latter's residence, talks used to be concerning the collection of fund in the name of riot affected persons. The ocular evidence collected by the investigating officer points to several meetings that were conducted in Delhi with political leaders after the riots, wherein it was discussed by the accused applicant with the leaders of a prominent national party in power at that time to implicate names of senior leaders of the BJP government of the

state of Gujarat in these riot cases. These revelations in the statement of the witness has to be seen in conjugation with an incident of exhumation of human skeletal remains from Pandarvada village of Mahisagar District that had happened in the year 2006. The said witness has stated that he, the applicant and R.B. Sreekumar had gone to the place along with various media personnel. During this visit, the applicant accused had remarked that the BJP government would have to resign in three days. Her political ambition is further revealed in the course of a conversation that was made by her in the presence of the witness with an unknown political leader, wherein she had remarked:

“શબાના અને જાવેદ મીયા બીબીને ચાન્સ આપવાનો ? મને કેમ રાજ્યસભાના મેમ્બર

બનાવતા નથી”

Further, it is submitted that the said witness had stated in his statement recorded before the Investigating Officer that for her efforts in malicious and vexatious prosecution and litigation and for the efforts of her team to falsely project the theory of larger conspiracy in an effort to falsely implicate person(s) with no role in the crimes, the present applicant was awarded 'Padma Shri' by the then Government of India in the year 2007.

F. That the political motive behind the efforts made by the applicant to tarnish the image of the Government of Gujarat and its top functionaries is also illustrated in the statement of one witness. One Qutbuddin Ansari's photograph was clicked by a press photographer on 01/03/2002 and was published in several media channels and newspapers. The witness had stated that he was approached by Raishkhan Pathan, the field convenor of the petitioner's NGO, CJP and on the instructions of applicant, he and his family were taken to Mumbai and then to Kolkata and were paraded before various media channels

on several occasions. The witness stated that his photographs and interviews were used by the petitioner not only to collect huge funds in their names, but also for political campaigning to malign the image of Gujarat. Qutbuddin Ansari further stated that when he became aware of the political and financial misuse of his image, he returned to Gujarat. The witness stated that he had been called by the petitioner to her lawyer's office in Ahmedabad and intimidated and chastised him for leaving her team. The witness stated before the investigation officer that he had made several appeals to all media channels and had also preferred an application before Ahmedabad City Police praying to impose a ban on the use of his image in the future. The statement of the witness, Qutbuddin Ansari is also corroborated by the statement of other witness.

G. The political and financial motives of the accused persons in furtherance of their larger conspiracy is further evident in various email transactions forwarded by the Government of Gujarat vide its letter dated 22-06-2011. This correspondence addressed to the Supreme Court monitored Special Investigation Team contains emails exchanged between Mr. Sanjiv Bhatt, then DIG, Gujarat Police and certain individuals during April & May 2011. It had been mentioned in the above letter that during the course of an inquiry instituted against Mr. Sanjiv Bhatt, IPS by DG (Civil Defence), Gujarat regarding misuse of official resources these records were obtained. From a careful analysis of these electronic communication records, it has been ascertained that top Congress Leaders of Gujarat were in constant touch with Sanjiv Bhatt during the period in consideration. From the various emails, it appears that Shri Sanjiv Bhatt was holding personal meetings with senior congress leaders as well. In one of the emails, he even mentioned that he was "under exploited" by the lawyer representing

Congress before Nanavati Commission of Inquiry. It would suffice to mention here that from the various such email interactions between congress leaders and others with Sanjiv Bhatt receiving "packages" and also legal assistance provide further credence to their implications in commission of offences done pursuant to the political motive of the larger conspiracy. Sanjiv Bhatt was simultaneously in contact with present applicant and was coordinating with her in pursuant of larger conspiracy. The present applicant was also tutoring Sanjiv Bhatt before his deposition before the Nanavati Commission with "mock questions and answers".

H. That the political nature of the conspiracy of involving political authorities of Government of Gujarat in vexatious and malicious prosecution is further revealed from the facts narrated by the said witness wherein he stated that when the applicant became aware of a statement made by Shri Vithalbhai Pandya, father of late Shri Haren Pandya, former minister of Gujarat, before the media channels alleging that the then CM of the state of Gujarat is responsible for the murder of his son, the applicant attempted to be in contact with Shri Vithalbhai Pandya and to make him join Citizen for Justice and Peace (an NGO which was formed by the applicant few days after Godhra Train incident). Shri Vithalbhai Pandya was also taken to Bombay to meet the applicant. It has also emerged that a written complaint of Shri Vithalbhai Pandya was prepared in the office of advocate Mr. Sohail Tirmizi (advocate for the applicant) as per the advice and instructions of the applicant and the co-accused R B Sreekumar. However, when called to the office of Sohail Tirmizi to obtain his signature on the already drafted complaint, Shri Vithalbhai Pandya refused to sign as names of several innocent persons had been mentioned as accused in the said prepared complaint got prepared by the applicant.

1. That the intention of the applicant ab-initio was never in the interest of securing justice, rather she had used the guise of fighting for justice to obtain monetary benefits through her NGO. These facts are revealed in the investigation in an FIR registered at DCB Police Station Ahmedabad City vide I CR No 1/2014, wherein the complainant Firozkhan Saeedkhan Pathan had alleged that every year the members of the NGO headed by the applicant had been organizing a function in the memory of those who had lost their lives in the 2002 riots. It was alleged that during such functions, various schemes for the rehabilitation of the riot victims, financial support and support for the reconstruction of the houses were announced by the applicant, viz. Teesta Setalvad, under the banner of her two NGOs. It was alleged that over a period of time, the applicant had established a close rapport with the riot affected victims. In the month of December 2007, the applicant had put forward an idea of purchasing the entire Gulbarg Society at the then market price and thereafter to convert the same into the "Gulbarg Society Museum of Resistance". It is alleged that she had promised to make good the payment within a month if the members of the society were ready and willing to sell their respective residential units. It was alleged that although such representations were made by the accused persons, neither financial support was extended to the inhabitants of the society for the reconstruction of their houses nor any amount was paid towards the reimbursement of the rent being paid by them. It was alleged that the society was also not converted into a museum even after a period of more than 4 years from the date of passing of the said resolution. The complaint also referred to the details furnished by the Ministry of Home Affairs, Government of India, stating that according to the FC Form-3 submitted by the CJP, foreign donations to the tune of Rs.63 lac were received between 2009 and 2011 and were credited in

the IDBI Bank Account of the CJP and donations to the tune of Rs.88 lac were received during the period between 2008 and 2011 and were credited in the Union Bank of India Account of the Sabrang Trust. It was alleged that this money was misappropriated for personal use, and thus victims were cheated. Investigation in the said FIR has revealed that the bank accounts belonging to the CJP and Sabrang Trust were being used by the applicant, inter-alia others for transferring substantial part of the money to either accounts belonging to companies owned by them or to their personal accounts. Investigation also revealed that the credit card payment running into lakhs of rupees were made for personal expenditure by the applicant. The honourable Gujarat High Court observed in Cri. Misc Application (For Anticipatory Bail) No. 4677 of 2014

Having gone through the materials on record, I have noticed something very shocking, and at the same time, extremely sad. There are serious allegations against the applicants of misuse and misappropriation of huge amount received by them through various donors. The money which should have gone to the poor and the needy appears to have been prima facie misused for their personal pleasure and comfort.

It is submitted that the said FIR is for a separate and distinct offence and therefore more elaborate details are not mentioned in this affidavit.

- J. That the monetary motives of the petitioner to further her agenda is also illustrated by the fact that she had not only used the guise of collecting money in the name of riot victims, but also had used her FCRA licence to illegally obtain foreign funding from various international NGOs. The NGOs managed by the petitioner had mixed foreign contribution with domestic contribution, circumvented the compliance requirements to receive foreign contribution, etc from foreign donors such as Ford Foundation for which a criminal case pertaining to violation of provisions of FCR Act had been registered at CBI Economic offences branch, Mumbai vide CR NO. 06/E/2015 against the CJP and Sabrang

Trust, both run and managed by the applicant. The further investigation is ongoing to find out other money collected by the applicant and other accused persons other than through legal means i.e., through legal banking channels.

- K. The applicant has claimed in her application that present FIR has been registered in utter disregard of the fact that there is not a single finding of Special Investigation Agency or any trial court or any constitutional court ever since 2002 till today, during over 20 years of judicial scrutiny, which states or even suggests that the applicant was involved in the fabricating of evidence or documents or for that matter tutoring witnesses. It is submitted that the role of applicant in relation to developments post-Godhra Train incident has been censured/condemned at various occasions by constitutional courts. Further the report of the honourable Supreme Court monitored SIT which conducted investigation clearly makes out a case against the applicant. This report is accepted by the trial court, Honourable Gujarat High Court and the Honourable Supreme Court.
- L. That the applicant has wrongly claimed that the SIT report dated 08.02.2012 filed before the Magistrate Court also does not say that the applicant was involved in any kind of fabricating evidence, documents or tutoring of the witnesses. The investigating agency craves leave to rely upon the SIT report itself in this regard.
- M. That the applicant has falsely stated in her application that the present FIR has been lodged by deliberate misreading of the cross examination of Ms Jakia Jafri. The applicant further claims that nowhere does Ms Jafri state in her cross examination that she was tutored by the applicant. In this regard I say and submit that paragraph 56 of cross-examination of Ms Jakia Jafri, i.e. PW-337 in Sessions Case No 152/02

and others arising out of Meghaninagar I CR No 67/02, reads as follows:

પડ. મેં કમિશનમાં જવાબ આપેલો તે બાબત સીટે મારી પૂછપરછ કરી શહે મને ચોક્કસ યાદ નથી. એ વાત ખરી છે કે અમને તિસ્તાબેન શેતલવાડ તથા શ્રીકુમારે જે જે જણાવ્યું તે પ્રમાણે હું અને બીજા સાક્ષીઓ બોલીએ છીએ. હવે હું કહું છું કે, મારે તિસ્તાબેન શેતલવાડ કે શ્રીકુમાર સાથે સીધી કોઈ વાત થયેલ નથી.

5. The criminal antecedent of applicant is stated hereinafter:

Sr. No.	PS/ FIR No.	Section	Remarks
1.	DCB PS/ CR No. I-1/2014	s. 72 - IT Act s. 406, 420, 120B - IPC	Pending Investigation
2.	DCB PS/ CR No. I-20/2018	s. 120B, 153B, 153A, 406, 409, 420 - IPC s. 13(1)(D)(i), 13(2) - PC Act	Pending Investigation
3.	Navrangpura PS/ M Case No. 02/2011	s. 193, 194, 195, 196, 199, 200 - IPC	Pending Investigation
4.	Lunavada PS/ M Case No. 3/06	s. 192, 193, 201, 120B, 295(A), 297, 114 - IPC	Pending Investigation
5.	J. P. Road PS, Vadodara City/ M Case No.14/05	s. 153(A), 199, 149, 365, 344, 348, 386, 387, 467, 468, 471, 506-2, 120B, 34 - IPC s. 135 - B P Act s. 25-1 - Arms Act	Reported to the Court
6.	CBI Economic Offence Branch, Mumbai/ RC No. 6/E/2015 DATE 08/07/2015	s. 120B - IPC r/w 35, 37 r/w 3, 11, 19 - FCRA 2010 corresponding to s. 23, 25 r/w s. 4, 6 & 13 of FCRA 1976.	Charge-sheet filed

6. I say and submit that the material collected during the brief period of investigation conducted till now is suggestive of the applicant having conjured facts and fabricated evidence including fabrication and forgery of documents by persons who were to be prospective witnesses of the complainant. It is not only a case of fabrication of documents and evidences, but also of influencing and tutoring the witnesses and making

them depose on pre-typed affidavit, as has been noted in the judgment of the High Court dated 11.7.2011 in Criminal Miscellaneous Application No. 1692/201194. As a matter of fact, applicant has "abused the process" for damning the elected representatives, bureaucracy, police administration and several innocent citizens of the whole State of Gujarat resorting to criminal offences.

7. I say and submit that applicant had not cooperated during the course of investigation and note of the same has also been made in the case diary.

8. I say and submit that investigation is in crucial stage. Another accused Shri Sanjiv Bhat has been arrested on 12.07.2022. He is presently under police custody and his custodial interrogation is in progress.

9. I say and submit that applicant is very powerful and influential by herself and has close contacts with highly influential persons. And if liberty of bail is granted, applicant will threaten and terrorise witnesses, destroy evidence and derail investigation. Hence I very humbly submit and pray that applicants bail application may kindly be rejected.

AND FOR THIS ACT OF KINDNESS I SHALL AS DUTY BOUND PRAY FOREVER

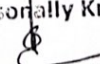
Deponent


(B.C. Solanki)

ACP SOG & Investigation Officer
Special Investigation Team
Ahmedabad

15/7/2022
A.C. Solanki
S.I.P.P.

Solemnly Affirmed before me
by Shri B.C. Solanki
who is identified by Shri
Clerk of Advocate Shri S.B. Borikhatt
whom I Personally Know (Armit Patel)


By, Registrar
City Civil & Sessions Court
Ahmedabad

Date: 15/7/2022