



2026 INSC 1101

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. OF 2026
[ARISING OUT OF SLP (CRL.) No. 21169 OF 2025]**

RAJNIKANT DUDHABHAI PARMAR

...APPELLANT

VERSUS

THE STATE OF GUJARAT & ORS.

...RESPONDENTS

ORDER

1. Leave granted.
2. The challenge in this appeal is to an order¹ dated 11th August, 2025 passed by the High Court of Gujarat at Ahmedabad. By the impugned judgment, the High Court allowed a revisional application² of the first respondent-State of Gujarat under Section 397 read with Section 2(d) of the Code of Criminal Procedure, 1973³ and quashed the order⁴ under challenge dated 13th September, 1999 discharging the appellant.
3. It appears from the record that the appellant was serving as a *Sipahi* at Sabarmati Central Prison. The prosecution case arose out of an incident

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rashmi.dhivraj
Date: 2025.10.08
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Reason:  impugned judgment

R/Criminal Revision Application No.595 of 1999

³ Cr. PC

⁴ Sessions Case No.319 of 1998, Sessions Case No.352 of 1998 and Sessions Case No.168 of 1999

dated 23rd March, 1998, when a police raid at the premises of Saira Banu Ishaq Ibrahim Shaikh resulted in an exchange of fire and recovery of arms, explosives, ammunition and cellular phones. In connection therewith, Crime No. 22/1998 was registered at Dariapur Police Station *inter alia* under Section 122 of the Indian Penal Code, 1860⁵. The role attributed to the appellant was that one of the accused persons had given a mobile phone to him for repair while he was discharging his duties at the prison. A chargesheet came to be filed by the investigation officer upon completion of investigation, whereafter the appellant moved an application for discharge under Section 227 of the Cr. PC. *Vide* order dated 13th September, 1999, the Additional Sessions Judge, Court No.10, Ahmedabad, allowed the application and discharged the appellant, while directing framing of charges against the remaining 4 accused under Sections 122 and 120-B of the IPC, sections 25(1-B), 28, 35 and 36 of the Indian Arms Act, 1959 and Sections 4 and 6 of the Explosive Substances Act, 1908.

4. The State thereafter preferred a revisional application⁶ before the High Court of Gujarat. After a considerable lapse of time, the High Court, *vide* judgment dated 11th August, 2025, allowed the revision and set aside the appellant's discharge.
5. The High Court in the impugned judgment recorded as follows:

"12. *** The trial court has thus gone into the evidence meticulously, entered into a roving inquiry, and has lost sight of the principles laid down in the case of State of Andhra Pradesh versus Golkonda Linga

⁵ IPC

⁶ Criminal Revision Application No. 595 of 1999

Swamy, reported in (2010) 9 SCC 368, where it is held that it is immaterial whether the case is based on direct or circumstantial evidence and the charge can be framed if there are materials showing the possibility about commission of the offence by the accused as against certainty. ***"

6. Curiously enough, the decision relied on by the High Court was not in existence on the date the Sessions Court allowed the application for discharge and, therefore, the High Court erred in observing that the Sessions Court has lost sight of the principles laid down therein.
7. Although we see such error as merely technical, even otherwise, we are of the considered opinion that the appellant having been discharged by an order dated 13th September, 1999, it would not in the interest of justice to uphold the impugned judgment and subject him to a trial at this distance of time particularly when no counter affidavit has been filed and, thereby, the fate of the trial *qua* the other accused is unavailable.
8. The impugned judgment, thus, stands set aside.
9. The appeal is, accordingly, allowed.
10. Pending application(s), if any, stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(SHEEL NAGU)

**NEW DELHI;
OCTOBER 05, 2026.**