



SC grants Teesta interim bail, orders release today

Directs her to surrender passport to trial court

PARMOD KUMAR
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The Supreme Court on Friday granted interim bail to activist Teesta Setalvad, accused of conspiracy and foraging material to allege that the top echelon of the Gujarat administration and police did not act in time to curb and control the riots that had engulfed the state in the aftermath of the Sabarmati Express arson at Godhra station, in which 59 people died in 2002.

Granting interim bail to Ms Setalvad, who is in incarceration for over two months, a bench comprising Chief Justice Uday Umesh Lalit and Justices S. Ravindra Bhat and Sudhanshu Dhulia noted that she has already undergone seven days of custodial interrogation



► **TEESTA WAS** arrested by the Gujarat police on June 25 and the session's court declined her bail plea on July 30

by the Gujarat police before she was remanded to judicial custody.

The top court ordered Ms Setalvad to be released by Saturday and said that the trial court will impose conditions to ensure her presence and participation in the investigation. It also ordered Ms Setalvad to deposit

her passport with the trial court.

The order came after the Supreme Court resumed hearing on Ms. Setalvad's bail petition. The hearing today lasted for over an hour.

The court in its order said that Gujarat high court will decide Ms Setalvad's plea for bail independently and on merits without being influenced by the observations made by it in the course of the hearing of the matter.

Ms Setalvad was arrested by the Gujarat police on June 25 and the session's court declined her bail plea on July 30. The Gujarat High Court, while hearing her bail plea on August 3, posted the matter for consideration on September 19.

In response to a poser

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during Thursday's hearing, solicitor general Tushar Mehta, appearing for the Gujarat government, said that it was a normal practice in the High Court to post the bail matter for hearing after six weeks and produced several instances to back up his assertion.

However, appearing for Ms Setalvad, senior advocate Kapil Sibal, who placed before the court a chart showing that the same judge had given bail in just two days, disputed the SG's assertion.

Countering it, Mr Mehta said that Ms Setalvad had maligned the Gujarat state and its instrumentalities in the past and was now maligning the judge as well.

In response Mr Sibal said, "He has not leveled any allegation against any institution or a judge."

Taking exception to the Gujarat High Court's posting of Ms Setalvad's bail plea after six weeks, the top court on Tuesday asked the solicitor general if it was a standard practice for the state High Court to post bail matters, including those involving women prisoners, after six weeks.

As the court sought to know what the investigating agency found during the seven-day long custodial interrogation of the activist Ms Setalvad, Mr Mehta said that she is "too powerful" and "did not cooperate".

"She is an intelligent person and did not answer the questions," SG told the court.

Mr Sibal, defending Ms Setalvad, told the court that she cannot be more powerful than the Gujarat state. "Who can be more powerful than the state," Mr Sibal said,

pointing out that Ms Setalvad is a 60-year-old lady.

As Mr Mehta reeled out the allegation against Ms Setalvad, referring to statements recorded by the magistrate court under Sections 161 and 164 of the Code of Criminal Procedure, Justice Lalit asked how he (Gujarat police) was in possession of the statement of a witness under Section 164 as it has to be in a sealed cover and in the custody of the magistrate.

Referring to the allegation by the Gujarat police against Ms Setalvad, Mr Sibal said that it was a repetition of same allegations made in the past cases and in one instance the top court had given relief to the activists and it was not disclosed by the solicitor general to the court today in the course of his arguments.

Mr Sibal said that it was not a prosecution of Ms Setalvad by the Gujarat police but a persecution.

He told the court that all the acts of Ms Setalvad relating to the 2002 Gujarat riot cases were a conspiracy and motivated. Mr Sibal said, "NHRC is motivated, I (Ms Setalvad) am motivated" and "there has never been an allegation that I have tampered with the evidence."

The case against Ms Setalvad is rooted in the June 24 top court judgment by which while pointing to the "ulterior designs" of Ms Setalvad, former DGP R.B. Sreekumar, ex-IPS officer Sanjiv Bhat and former state home minister late Haren Pandeya, the order said, "As a matter of fact, all those involved in such abuse of process need to be in the dock and proceeded with in accordance with the law."

India petroleum ministry assures NHRC there will be no eviction of Chakmas, Deoris without compensation

<https://economictimes.indiatimes.com/news/india/india-petroleum-ministry-assures-nhrc-there-will-be-no-eviction-of-chakmas-deoris-without-compensation/articleshow/93956109.cms>

Union Ministry of Petroleum & Natural Gas has assured the National Human Rights Commission that there will be no eviction of the Chakmas and Deoris without paying compensation. The National Human Rights Commission in its order dated 31.08.2022 closed the complaint against alleged forcible eviction of the Chakmas and Deoris from Mudokka Nallah and Sompoi-II villages under Diyun Circle of Changlang district of Arunachal Pradesh for the "Onshore Oil and Gas exploration and development and drilling and production in Ningru Oil and Gas field in districts of Changlang and Namsai for Ningru PML Block by M/S NSE -0.88 % " after the Ministry of Petroleum and Natural Gas informed the NHRC that "no forceful eviction to be made without paying compensation to the affected persons. Action be taken in accordance with law." The Chakma Development Foundation of India (CDFI) filed a complaint on January 20, 2022 against attempted eviction of the Chakmas and Deoris by the State government in connivance with the Oil India Ltd Company without paying fair compensation under the provisions of the Land Acquisition, Rehabilitation and Resettlement Act, 2013 by claiming the lands as forest with the aim to not pay fair compensation and rehabilitation as requires under the LARR Act.

The CDFI stated that the Chakma and Deori families are "project affected families" as per section 3(c) of LARR Act. Section 3(c) of the LARR Act states that affected family includes a family whose land or other immovable property has been acquired; a family which does not own any land but a member or members of such family may be agricultural labourers, tenants including any form of tenancy or holding of usufruct right, share-croppers or artisans or who may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land; family whose primary source of livelihood for three years prior to the acquisition of the land is dependent on forests or water bodies and includes gatherers of forest produce, hunters, fisher folk and boatmen and such livelihood is affected due to acquisition of land. "This protective order of the NHRC will go a long way to ensure the rights of the project affected Chakmas and Deoris. The project affected families are not opposing the oil drilling project per se but seeking the compensation as per the LARR Act which the Forest Department is denying as it seeks the compensation for itself which is illegal and unfortunate." – stated Suhas Chakma, Founder of the CDFI.

No forceful eviction in Arunachal villages for OIL project, NHRC told

<https://assamtribune.com/north-east/no-forceful-eviction-in-arunachal-villages-for-oil-project-nhrc-told-1436790>

The Petroleum Ministry has informed the NHRC that no forceful eviction of tribals will be made in two Arunachal Pradesh villages for an Oil India Ltd project without paying compensation to the affected people. Following the assurance from the Union Ministry, the National Human Rights Commission has closed the complaint filed by Chakma Development Foundation of India, a CDFI press release said on Friday.

The Ministry has also informed the NHRC that action be taken in accordance with law, leading the rights body to close the complaint by an order on August 31. Welcoming the development, CDFI founder Suhas Chakma said, "This protective order of the NHRC will go a long way to ensure the rights of the project-affected Chakmas and Deoris". The complaint against the alleged forcible eviction of Chakmas and Deoris from Mudokka Nallah and Sompoi-II villages of Arunachal Pradesh for onshore oil and gas exploration, and development, drilling, and production in Ningru Oil and Gas field in Changlang and Namsai districts was filed on January 20.

The CDFI complaint had alleged that the attempted eviction of the Chakmas and Deoris was being carried out by the state government in connivance with OIL without paying fair compensation under the provisions of the Land Acquisition, Rehabilitation and Resettlement Act, 2013, by claiming the lands as forest "with the aim to not pay fair compensation and rehabilitation". The CDFI claimed that the Chakma and Deori families are 'project affected families as per section 3(c) of LARR Act, which specifies the definition of such families eligible for compensation. The Chakmas had been residing in Moddaka Nallah and Deoris in Sompoi-II village for decades, the release said. "The project affected families are not opposing the oil drilling project per se but seeking compensation as per the LARR Act which the Forest Department is denying as it seeks the compensation for itself which is illegal and unfortunate," he claimed.

No Forceful Eviction In Arunachal Villages For Initiating OIL

<https://www.northeasttoday.in/2022/09/02/no-forceful-eviction-in-arunachal-villages-for-initiating-oil-project-union-petroleum-ministry-assures-nhrc/>

The Petroleum Ministry has informed the National Human Rights Commission (NHRC) that no forceful expulsion of tribal citizens will occur along the two hamlets of Arunachal Pradesh, for initiating an Oil India Ltd. project, without providing compensation to the impacted people.

Following the assurance from the Union Ministry, the NHRC has closed the complaint filed by the Chakma Development Foundation of India (CDFI).

Welcoming the development, the CDFI Founder – Suhas Chakma said, “This protective order of the NHRC would go a long way to secure the rights of the project-affected Chakmas and Deoris”.

The complaint regarding the alleged forcible eviction of Chakmas and Deoris from Mudokka Nallah and Sompoi-II villages of Arunachal Pradesh for onshore oil and gas exploration, development, drilling, and production in Ningru Oil and Gas field at Changlang & Namsai districts was filed on January 20.

According to the CDFI complaint, the state government attempted to evict the Chakmas and Deoris in connivance with OIL; without providing fair compensation in accordance with the provisions of the Land Acquisition, Rehabilitation and Resettlement Act, 2013, by claiming the lands as forest “with the aim to not pay fair compensation and rehabilitation”.

The CDFI claimed that the Chakma and Deori households are ‘project affected families as per section 3(c) of LARR Act, which outlines the description of such families entitled for compensation.

“The project impacted families are not opposed to the oil drilling project per se, but are seeking compensation under the LARR Act, which the Forest Department is denying as it seeks recompense for itself, which is regrettable and illegal,” he alleged.

Ministry of Petroleum, Natural Gas assures NHRC no eviction of Chakmas, Deoris without paying compensation

<https://theprint.in/india/ministry-of-petroleum-natural-gas-assures-nhrc-no-eviction-of-chakmas-deoris-without-paying-compensation/1113445/>

The Ministry of Petroleum and Natural Gas has assured the National Human Right Commission (NHRC) that no forceful eviction is to be made without paying compensation to the affected persons in the matter pertaining to alleged forcible eviction of the Chakmas and Deoris communities in Changlang district of Arunachal Pradesh for the “Onshore Oil and Gas exploration”.

Earlier, NHRC in its order dated August 31, 2022, closed the complaint against the alleged forcible eviction of the Chakmas and Deoris, from Mudokka Nallah and Sompoi-II villages under Diyun Circle of Changlang district of Arunachal Pradesh for the “Onshore Oil and Gas exploration and development and drilling and production in Ningru Oil and Gas field in districts of Changlang and Namsai for Ningru PML Block by M/S Oil India Ltd” after the Ministry of Petroleum and Natural Gas informed the NHRC that “no forceful eviction to be made without paying compensation to the affected persons. Action be taken in accordance with the law.”

If dissatisfied with the action taken, the complainant is free to take recourse to appropriate legal proceedings. The case is closed with the direction above, said the NHRC.

Meanwhile, the Chakma Development Foundation of India (CDFI) filed a complaint on 20 January 2022, against the attempted eviction of the Chakmas and Deoris by the State government in connivance with the Oil India Ltd Company without paying fair compensation under the provisions of the Land Acquisition, Rehabilitation and Resettlement Act, 2013, by claiming the lands as a forest with the aim not to pay fair compensation and rehabilitation as requires under the LARR Act.

The CDFI stated that the Chakma and Deori families are “project affected families” as per section 3(c) of LARR Act. Section 3(c) of the LARR Act states that an affected family includes a family whose land or another immovable property has been acquired; a family which does not own any land but a member or members of such family may be agricultural labourers, tenants including any form of tenancy or holding of usufruct right, share-croppers or artisans or who may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land; a family whose primary source of livelihood for three years prior to the acquisition of the land is dependent on forests or water bodies and includes gatherers of forest produce, hunters, fisher folk and boatmen and such livelihood is affected due to acquisition of land.

However, for decades, Moddaka Nallah resided by the Chakma tribes and Sompoi-II village was resided by the Deori tribes. The Chakmas have been settled in the Moddaka Nallah village in 1966 and the Governor of Arunachal Pradesh vide Arunachal Pradesh Gazette dated 31 August 2006 renamed Moddaka Nallah village as Modduknong, stated complainant.

“This protective order of the NHRC will go a long way to ensure the rights of the project-affected Chakmas and Deoris. The project-affected families are not opposing the oil drilling project per se but seeking the compensation as per the LARR Act which the Forest Department is denying as it seeks the compensation for itself which is illegal and unfortunate,” stated Suhas Chakma, Founder of the CDFI in a statement. (ANI)

SC grants interim bail to Teesta Setalvad in Gujarat riots case, questions HC on long adjournment

<https://theprint.in/judiciary/sc-grants-interim-bail-to-teesta-setalvad-in-gujarat-riots-case-questions-hc-on-long-adjournment/1113366/>

The Supreme Court Friday granted interim bail to social activist Teesta Setalvad, who was arrested more than two months ago on the charges of forgery and fabrication of evidence in the 2002 Gujarat riots cases.

A three-judge bench led by Chief Justice UU Lalit directed the Gujarat Police to produce Setalvad before a local court in Ahmedabad Saturday so that her release can be formalised subject to bail conditions.

“Having attention to all the relevant aspects of the matter, the appellant is entitled to the relief of interim bail,” the SC ordered.

The court allowed Setalvad’s request and asked the trial court to accept cash surety from her as a bail bond, instead of insisting on a local surety. It would be open for the trial court to stipulate the interim bail conditions, the court clarified.

Without going into the rival contentions advanced by both sides – Setalvad and the Gujarat government – the bench observed that the social activist was entitled to interim bail, considering certain aspects of the case. It also said the relief was in wake of peculiar facts of the case, including that Setalvad is a woman.

The apex court made it clear that as far as Setalvad’s regular bail is concerned, the Gujarat HC, where her bail petition is still pending, will take a final call. The court observed that it has considered the matter from “the standpoint of interim bail” and has “not touched upon the merits of the submission”.

“The entire matter on merits shall be considered by the HC independently and uninfluenced by observations made by this court in the order,” the court mentioned in its order.

It also restrained other accused persons in the case from citing Friday’s order as a precedent in their bail applications, as and when they are filed. The order, it clarified, “shall not be taken to be a reflection and not used by the other accused as and when occasion arises” and that the court shall consider their case “purely on merits”.

Until the HC doesn’t decide Setalvad’s plea, her passport would be kept in the custody of the trial court in Ahmedabad where her case is pending, the SC further added, while directing her to “tender complete cooperation in the pending investigation”.

Arrested on 25 June, Setalvad has been accused of tutoring, fabricating and forging evidence in Gujarat riots cases and trying to frame innocent persons. An FIR was

registered against Setalvad on 25 June, a day after the SC dismissed a petition filed by Zakia Jafri, widow of Congress MP Ehsan Jafri, who was killed in the riots, and Setalvad, challenging the clean chit given to then Gujarat chief minister and now Prime Minister Narendra Modi and other high-ranking state officials in the alleged larger conspiracy behind the 2002 riots.

Setalvad had approached the SC after the Gujarat HC on 2 August issued a notice on her appeal challenging the Ahmedabad trial court's 30 July order refusing her bail in the case. The HC had, however, turned down her plea for interim bail until a decision was taken on her regular bail plea. Moreover, it adjourned the matter by six weeks and listed the matter for a hearing on 19 September.

Matter argued for two days

Aggrieved by the long adjournment, Setalvad filed a petition in SC under Article 136 of the Constitution, which gives the top court discretion to entertain a plea filed against any judgment, decree or an order passed by any court in the country. In this, she questioned both the trial court order as well as the HC's decision to deny her interim bail.

The matter was argued at length for two days. On Thursday, the top court asked Solicitor General Tushar Mehta, appearing for the state, to explain if it was a norm for Gujarat HC to give long dates. In response, Mehta Friday denied claims that the HC had been unfair to Setalvad and that the judge followed a uniform practice.

He then presented witness statements to the bench – two submitted to the police, two recorded before the magistrate – to assert his point that Setalvad was a part of a larger conspiracy to malign the state.

Mehta accused Setalvad of painting Gujarat as a “state of rapes” and claimed she had refused to cooperate with the police during her seven days of custody with the investigators.

“She is an intelligent person, she refused to give answers,” he said, adding in the same vein, “She is entitled to remain silent, that is her right.”

According to him, the investigation was at a crucial stage and was in the process of finding out how the conspiracy was hatched and who all were a part of it.

Mehta urged the bench not to “set a bad precedent” by entertaining Setalvad's plea, especially since her regular bail petition was still pending before the state HC.

‘HC should have considered plea’

Setalvad's counsel, senior advocate Kapil Sibal, rejected the charges levelled against his client and said the state had made her out to be its “biggest enemy”.

“This is persecution and not prosecution,” Sibal said, questioning the state’s action on the alleged incidents, which he added happened “20 years ago”.

According to him, the affidavits, which the state claims were forged, were given to the SC in support of a petition by the National Human Rights Commission (NHRC), which culminated in the riots cases getting transferred to the court-appointed SIT.

After considering the submissions, counter-arguments and “certain important aspects of the matter”, the SC said Setalvad was entitled to interim relief of bail.

“In our view, the HC ought to have considered the prayer for release on interim bail during the pendency of the matter,” the court held.

The aspects that favoured Setalvad were that she was in police custody for seven days, had been in jail for over two months and the alleged offences pertain to the period of 2002, or at best till 2012 when the SIT completed all its enquiries.

“The essential ingredients of the investigation, including custodial interrogation having been completed, the matter assumed a complexion where the relief of interim bail till the matter was considered by the HC, was evidently made out,” it said.

अरुणाचल: NHRC ने चकमा देवरिस बनाम OIL के लिए सुरक्षात्मक आदेश जारी किया

<https://jantaserishta.com/local/arunachal-pradesh/arunachal-nhrc-issues-protective-order-for-chakma-deoris-vs-oil-1530267>

राष्ट्रीय मानवाधिकार आयोग (एनएचआरसी) द्वारा हाल ही में जारी एक आदेश ने अरुणाचल प्रदेश के चांगलांग जिले के दीयुन सर्कल के तहत मुडोक्का नाला और सोमपोई-द्वितीय गांवों से चकमा और देवरियों के कथित जबरन निष्कासन के खिलाफ शिकायत को बंद कर दिया है। पेट्रोलियम और प्राकृतिक गैस मंत्रालय द्वारा एनएचआरसी को आश्वासन दिए जाने के बाद यह आदेश जारी किया गया था कि प्रभावित व्यक्तियों को मुआवजा दिए बिना चांगलांग और नामसाई जिलों में कोई भी जबरदस्ती बेदखली नहीं की जाएगी। उक्त जिलों में निंगरू ऑयल एंड गैस फील्ड में तटवर्ती तेल और गैस की खोज, विकास, ड्रिलिंग और उत्पादन ऑयल इंडिया लिमिटेड (ओआईएल) द्वारा किया जा रहा है। चकमा डेवलपमेंट फाउंडेशन ऑफ इंडिया (CDFI) ने 20 जनवरी को OIL की मिलीभगत से राज्य सरकार द्वारा चकमा और देवरियों को बेदखल करने के प्रयास के खिलाफ शिकायत दर्ज की थी। उन्होंने आरोप लगाया कि उन्हें भूमि अधिग्रहण, पुनर्वास और पुनर्वास (एलएआरआर) अधिनियम, 2013 के प्रावधानों के तहत उचित मुआवजा नहीं दिया जा रहा है। सीडीएफआई ने यह भी दावा किया कि ओआईएल तेल क्षेत्रों को 'जंगल' कह रहा था ताकि उसे भुगतान न करना पड़े। एलएआरआर अधिनियम के तहत अपेक्षित उचित मुआवजा और पुनर्वास। सीडीएफआई ने कहा कि चकमा और देवरी परिवार एलएआरआर अधिनियम की धारा 3 (सी) के अनुसार "परियोजना प्रभावित परिवार" थे। इस अधिनियम में "प्रभावित परिवारों" की एक विस्तृत परिभाषा है, जिसमें ऐसे परिवार शामिल हैं जिनकी भूमि या अन्य अचल संपत्ति का अधिग्रहण किया गया है, ऐसे परिवार जिनकी आजीविका का प्राथमिक स्रोत भूमि के अधिग्रहण से प्रभावित है, और इसी तरह मोदका नाला 1966 से चकमा जनजाति द्वारा बसा हुआ है। देवरी जनजाति दशकों से सोमपोई-द्वितीय गांव में रहती है। ऐसे 13 परिवार हैं जिन्हें वन विभाग और आर्थिक सलाहकार परिषद (ईएसी) द्वारा अधिसूचना जारी की गई है और वे "परियोजना प्रभावित परिवार" के रूप में योग्य हैं "एनएचआरसी का यह सुरक्षात्मक आदेश परियोजना प्रभावित चकमा और देवरियों के अधिकारों को सुनिश्चित करने के लिए एक लंबा रास्ता तय करेगा। सीडीएफआई के संस्थापक सुहास चकमा ने कहा, प्रभावित परिवार तेल ड्रिलिंग परियोजना का विरोध नहीं कर रहे हैं, लेकिन एलएआरआर अधिनियम के अनुसार मुआवजे की मांग कर रहे हैं, जिसे वन विभाग नकार रहा है, क्योंकि वह खुद के लिए मुआवजा चाहता है, जो अवैध और दुर्भाग्यपूर्ण है। .

जेल में मानसिक स्वास्थ्य प्रतिष्ठान संबंधी याचिका पर केंद्र, राज्यों से जवाब तलब

<https://navbharattimes.indiatimes.com/india/center-seeks-response-from-states-on-petition-regarding-mental-health-establishment-in-jail/articleshow/93955164.cms>

उच्चतम न्यायालय ने देश भर के कारागारों में मानसिक स्वास्थ्य प्रतिष्ठान स्थापित करने का अनुरोध करने वाली जनहित याचिका पर शुक्रवार को केंद्र और अन्य से जवाब मांगा। न्यायमूर्ति एस ए नजीर और न्यायमूर्ति वी रामसुब्रमण्यम की पीठ ने वकील कुश कालरा द्वारा दायर एक याचिका पर केंद्र, सभी राज्यों और केंद्र शासित प्रदेशों को नोटिस जारी किए।

मामले की सुनवाई 21 अक्टूबर को होने की संभावना है।

याचिका में कहा गया है, “याचिकाकर्ता ने भारत के कारागारों में स्थापित मानसिक स्वास्थ्य प्रतिष्ठानों की के बारे में जानने के लिए सूचना का अधिकार अधिनियम, 2005 के तहत आवेदन दायर किया।”

इसमें कहा गया है, “याचिकाकर्ता यह जानकर हैरान रह गया कि भारत के अधिकतर कारागारों में मानसिक स्वास्थ्य अधिनियम, 2017 की धारा 103 (छह) के तहत अनिवार्य मानसिक स्वास्थ्य प्रतिष्ठान नहीं हैं।”

याचिका में मानसिक स्वास्थ्य के प्रावधानों के बारे में कारागार कर्मचारियों और पुलिस को प्रशिक्षण देने एवं जागरूकता फैलाने के निर्देश देने का भी अनुरोध किया गया है।

जनहित याचिका में कहा गया है कि मानसिक बीमारी कैदियों में आत्महत्या की प्रवृत्ति पैदा करती है और जेल कर्मचारियों में मानसिक बीमारी से जूझ रहे कैदियों के प्रति संवेदनशीलता विकसित करने की आवश्यकता है।