

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 2129 of 2025**

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RAJUBHAI DALSINGHBHAI NINAMA THRO SOMLIBEN RAJUBHAI
NINAMA
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR A A ZABUAWALA(6823) for the Applicant(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2

MR HARDIK DAVE, PUBLIC PROSECUTOR assisted by MS SHRUTI
PATHAK with Mr. MANAN MEHTA APP For the Respondent(s) No. 1**CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 01/08/2025
ORAL ORDER**

1. Earlier, this Court had passed an order dated 30.07.2025, and in continuation thereof, the Court is now inclined to pass the present order in view of subsequent developments. Pursuant to the order dated 31.07.2025, the Jail Superintendent, Vadodara appeared before this Court and assured that action would be taken against the erring officer. Today, the learned Public Prosecutor has placed on record a show cause notice issued to the concerned officers, calling upon them to explain why departmental proceedings should not be initiated against them.

2. Furthermore, the learned Public Prosecutor submitted that in view of the observations made in the earlier order dated 30.07.2025, a circular has now been issued revoking the previous circular dated 05.11.1988 bearing No. JUD1/4360/1988, which dealt with the extension of set-off

benefits.

3. As observed in the order dated 30.07.2025, the conduct of respondent No.2 – Jail Superintendent, Vadodara reflected gross negligence and a callous attitude. Despite the specific direction issued on 11.07.2025 to recalculate the set-off period in accordance with the conviction warrant and to release the convict if eligible, the Jail Authority continued to delay compliance. Although ample time was granted to rectify the arithmetic error in the calculation of the set-off period, respondent No.2 continued to justify the erroneous calculation. The Jail record repeatedly reflected a set-off period of 4 months and 55 days, whereas the conviction warrant explicitly mentioned a set-off of 1 year, 4 months, and 1 day. Instead of correcting the mistake, the State authorities attempted to defend their flawed computation.

4. Consequently, the Court was constrained to pass an order on 30.07.2025 directing the immediate release of the convict and calling upon respondent No.2 to remain present on the next date of hearing. In compliance with that direction, on 31.07.2025, the Jail Superintendent, Deputy Superintendent, and Senior Jailors appeared personally before this Court. They were granted an opportunity to explain the basis of their erroneous calculation and their failure to rectify the same despite repeated directions. However, rather than showing remorse, they again attempted to justify their actions based on the revoked circular dated 05.11.1988, which is contrary to established legal principles and

precedents laid down by the Hon'ble Supreme Court, particularly in the case of ***State of Maharashtra v. Najakat Ali Mubarak Ali (2001) 6 SCC 311***, interpreting Sections 427 and 428 of the CrPC.

5. As per the Section 428 of the Cr.P.C. and Jail Manual and Form No. 50 of the Criminal Manual, once the set-off period is specified in the conviction warrant, the convict is required to undergo only the remaining sentence. The role of the Court is to determine the sentence; the responsibility of execution the sentence lies with the State. In this case, the Jail Authorities, instead of following the clear directions in the warrant, unilaterally reduced the set-off period, resulting in the petitioner undergoing an additional 2 months and 8 days of illegal detention, which amounts to wrongful confinement and a violation of Articles 19 and 21 of the Constitution of India. Such wrongful confinement, stemming from arbitrariness and high-handedness, reflects a complete disregard for the fundamental rights of the convict. Article 51A of the Constitution enjoins all citizens to show compassion toward living beings. Jail inmates, although convicts, do not lose their fundamental rights. Despite repeated opportunities, the authorities failed to act with empathy and continued with their illegal and arbitrary approach. Considering these facts and keeping in mind the constitutional guarantees to citizens under Articles 14, 19, and 21, this Court, in exercise of its powers under Articles 226 of the Constitution of India, finds this to be a fit case for the imposition of compensation upon the erring officers in this regard, this Court

deems it fit to refer the judgment passed by the Hon'ble Supreme Court, in the cases of **Rudal Shah v. State of Bihar (1983) 4 SCC 141** and **D.K. Basu v. State of West Bengal (1997) 1 SCC 416**, has recognized the remedy of compensation under public law. Applying the ratio of these judgments, this Court deems it fit to impose compensation upon the erring officer.

6. Today, Smt. Usha Rada, IPS, Jail Superintendent, Vadodara, Mr. J.J. Parmar, Jailor, and Mr. N.G. Parikh, Jailor, remained virtually present before this Court. Mr. M.A. Chaudhary, Deputy Superintendent, Mr. V.D. Baria, Police Inspector, and Mr. S.G. Mohit, Senior Clerk, were physically present. Respondent No.2 – the Jail Superintendent – voluntarily expressed her willingness to pay compensation to the convict-applicant herein.

7. Considering the above, respondent No.2 is hereby directed to pay compensation of Rs.50,000/- (Rupees Fifty Thousand only) directly to the applicant-convict in his bank account bearing No. 014110083335, maintained with India Post Payments Bank, IFSC: IPOS0000001. Rule is made absolute.

8.1 Further, the respondent authority is directed to undertake a comprehensive exercise to recalculate the set-off period for all convicts as per their respective conviction warrants. After due verification, updated admission cards/tickets of convicts and relevant jail records shall be prepared in accordance with the

circular dated 01.08.2025.

8.2 The concerned judicial officers who are jail visitors are instructed that during their jail visits, they must verify jail records to ensure that no under trial prisoners or convicts remain illegally detained even for a minute beyond the completion of their sentence or granting of bail.

8.3 It is hoped that the jail authorities will treat all inmates with humanity and sensitivity, following the Model Jail Manual, and do needful for rehabilitation of convicts and prisoners. The Inspector General of Prisons shall ensure that a friendly and compassionate atmosphere, akin to “Ashram,” is required to be created within the jails.

***“The best way to find yourself is to lose
yourself in the service of others.”***

— Mahatma Gandhi

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(HASMUKH D. SUTHAR,J)