

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 6051 of 2023**

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STATE OF GUJARAT

Versus

UNIQUE IDENTIFICATION AUTHORITY OF INDIA, UIDAI, GOVT. OF INDIA &
ORS.

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Appearance:

MS SHRUTI PATHAK, APP for the Applicant(s) No. 1

MR JUCKY LUCKY CHAN(8033) for the Respondent(s) No. 2,3,4,5

MR KSHITIJ M AMIN(7572) for the Respondent(s) No. 1

NOTICE NOT RECD BACK for the Respondent(s) No. 6

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 19/06/2025**ORAL ORDER**

RULE. Learned advocate Mr. Kshitij Amin waives service of notice of Rule for and on behalf of the respondent No.1.

[1.0] By way of present petition under Articles 226 and 227 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, the petitioner – State of Gujarat has prayed for the following reliefs:

“(B) As it is a mandatory to grant the sanction by this Hon’ble High Court as per the section 33 of the Aadhaar Act, 2016, Your Lordships may be pleased to grant appropriate sanction and direction to the Aadhaar Authority to provide the details of Aadhaar Card of the accused (Respondent No.2);

(C) Your Lordships may kindly allow the present petition and issue appropriate orders directing respondents to disclose the information with respect to the Aadhaar Card Holders which is sought by the investigating agency for the investigation of the case with C.R. No.1-22/2018, under Sections 406, 420, 467, 468, 471, 114 and 120(B) of Indian Penal Code and sections 34 and 42 of Aadhaar Act, 2016;”



[2.0] Heard learned APP Ms. Shruti Pathak for the petitioner and learned advocate Mr. Kshitij Amin for the respondent No.1 – Authority.

[3.0] Perusing the facts of the case, it appears that the complainant has filed an FIR with J.P. Road Police Station, Vadodara City being I-C.R. No.22 of 2018 against respondent Nos.2 to 6 herein for the offences under Sections 406, 420, 114 of the Indian Penal Code and after investigation, sections 467, 468, 471 and 120(B) of the IPC as well as sections 34 and 42 of the Aadhaar Act, 2016 came to be added, as the respondent Nos.2 to 6 – accused in collusion with each other had shown notes of Riyal currency of 100 denomination and collected Rs.15,000/- from the complainant under false assurance of giving him Riyal currency to the complainant and gave only two notes of 100 Riyal and thus, committed offence of criminal breach of trust and cheating. After investigation it has revealed that respondent Nos.2 to 6 – accused are residents of Bangladesh and have forged some documents and offence is registered under the Aadhaar Act, 2016 also.

[3.1] The respondent Nos.2 to 6 have also forged Aadhaar Card and PAN Card which were found from their possession and for the purpose of identification and/or authentication of the Aadhaar Card, it is important to get details of the accused persons which can be obtained from the respondent Authority and for that purpose, the State of Gujarat has filed the present petition as there is bar under Section 28 of the Aadhaar Act, 2016.

[4.0] Considering the security and confidentiality of the



information as well as bar under Section 29 of the Aadhar Act, 2016 and the right of privacy and the provision, such information can be disclosed only pursuant to the order of the High Court.

[4.1] Perusing the facts of the complaint as well as the petition, it appears that the information of the accused who does not belong to India and who have forged Aadhar Card and other material documents and to unearth the truth and for coming to logical end of investigation, information is required. Considering bar under The Aadhar Act, 2016 and Aadhar (Amended) Act and other laws, disclosure of information including the identity, authentication of a person is barred but there is no bar under Section 33 of the Aadhar Act, 2016 and the High Court is competent to pass appropriate order in that regard. At this stage, provisions of sections 28, 29 and 32 of the Aadhar Act, 2016 are required to be referred to, which read as under:

“28. Security and confidentiality of information.- (1) The Authority shall ensure the security of identity information and authentication records of individuals.

(2) Subject to the provisions of this Act, the Authority shall ensure confidentiality of identity information and authentication records of individuals.

(3) The Authority shall take all necessary measures to ensure that the information in the possession or control of the Authority, including information stored in the Central Identities Data Repository, is secured and protected against access, use or disclosure not permitted under this Act or regulations made thereunder, and against accidental or intentional destruction, loss or damage.

(4) Without prejudice to sub-sections (1) and (2), the Authority shall— (a) adopt and implement appropriate technical and organisational security measures; (b) ensure that the agencies, consultants, advisors or other persons appointed or engaged for performing any function of the Authority under this Act, have in



place appropriate technical and organisational security measures for the information; and (c) ensure that the agreements or arrangements entered into with such agencies, consultants, advisors or other persons, impose obligations equivalent to those imposed on the Authority under this Act, and require such agencies, consultants, advisors and other persons to act only on instructions from the Authority.

(5) Notwithstanding anything contained in any other law for the time being in force, and save as otherwise provided in this Act, the Authority or any of its officers or other employees or any agency that maintains the Central Identities Data Repository shall not, whether during his service or thereafter, reveal any information stored in the Central Identities Data Repository or authentication record to anyone: Provided that an Aadhaar number holder may request the Authority to provide access to his identity information excluding his core biometric information in such manner as may be specified by regulations.

29. Restricting on sharing information.- *(1) No core biometric information, collected or created under this Act, shall be— (a) shared with anyone for any reason whatsoever; or (b) used for any purpose other than generation of Aadhaar numbers and authentication under this Act.*

(2) The identity information, other than core biometric information, collected or created under this Act may be shared only in accordance with the provisions of this Act and in such manner as may be specified by regulations.

(3) No identity information available with a requesting entity shall be— (a) used for any purpose, other than that specified to the individual at the time of submitting any identity information for authentication; or (b) disclosed further, except with the prior consent of the individual to whom such information relates.

(4) No Aadhaar number or core biometric information collected or created under this Act in respect of an Aadhaar number holder shall be published, displayed or posted publicly, except for the purposes as may be specified by regulations.

30. Biometric information deemed to be sensitive personal information.- *The biometric information collected and stored in electronic form, in accordance with this Act and regulations made thereunder, shall be deemed to be “electronic record” and “sensitive personal data or information”, and the provisions contained in the Information Technology Act, 2000 and the rules made thereunder*



shall apply to such information, in addition to, and to the extent not in derogation of the provisions of this Act."

Considering the aforesaid fact, this Court has the power to pass appropriate directions to the respondent authority to provide the information as required for to ascertain the identity of accused.

[5.0] In view of above, respondent No.1 is directed to provide to the petitioner – State of Gujarat information as sought for by the Investigating Officer in connection with the FIR being I-C.R. No.22/2018 registered with J.P. Road Police Station, Vadodara City.

[6.0] With aforesaid direction, present petition is disposed of. Rule is made absolute accordingly.

(HASMUKH D. SUTHAR, J.)

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