

Salimbhai Abdul Gaffar Sheikh Summary

Criminal – Indian Penal Code – Section 34, 120B, 143, 147, 148, 149, 153A, 302, 307, 337, 338, 435 – Prevention of Terrorism Act – Section 3, 4, 34, 49 – Terrorist and Disruptive Activities Prevention Act – Section 20 – Charge sheet submitted against the accused with regard to setting a fire a coach of the Sabarmati Express resulting in death of 59 persons and serious injuries to others – Bail application of the respondents were rejected wherein the application was rejected and the court further ordered to include provisions of the Prevention of Terrorism Act against the accused – In granting bail in non-bailable offences the court has to take into account the seriousness of the offence, character of evidence, circumstances which are peculiar to the accused, reasonable possibility of the presence of the accused not being secured at the trial, reasonable apprehension of the witnesses being tampered with and larger interest of public – An appeal is a proceeding taken to rectify an erroneous decision of a court by submitting the question to a higher court – An order granting bail can be examined on merits by the High Court – Respondents did not apply for bail before the Special Court - Order of High Court clearly without jurisdiction as under the provisions of the Act, the accused can only file an appeal against an order of refusal of bail before the Special Court – High Court erred in passing the order granting bail – Appeal allowed and the order passed by High Court granting bail to the respondents set aside