

Makhijani Pushpak Harish v. State of Gujarat

Case number: Criminal Appeal No. 1193 of 2023, arising out of Special Leave Petition (Criminal) No. 2868 of 2023

Citation: No neutral citation is printed in the official signed order; none independently verified.

Decision date: 19 April 2023

Removal of a bank-guarantee condition for bail in a CGST prosecution

Court: Supreme Court of India

Bench: Krishna Murari and Ahsanuddin Amanullah, JJ.

Decision stage: Final reasoned disposal of a criminal appeal after grant of leave, confined to a bail condition.

01 Facts of case and issues

Makhijani Pushpak Harish was arrested following a complaint by the Superintendent (Prevention), Central GST and Central Excise, Vadodara. Paragraph 3 mentions CGST sections 69 and 132(1)(a) and records that he sought bail under section 437 of the Code of Criminal Procedure from the Chief Judicial Magistrate, Vadodara. The Magistrate granted bail subject to a ₹3 crore bank guarantee and other conditions. On 12 January 2023, the Gujarat High Court, in Criminal Miscellaneous Application No. 710 of 2023, reduced the guarantee to ₹1.5 crore. The Supreme Court appeal challenged the remaining guarantee condition. The order does not state the alleged tax amount or decide guilt.

Pinpoint: Paragraphs 3–5, official PDF pages 1–2; ROP on page 5 confirms the impugned proceeding.

02 Discussion by Hon'ble Court

The question was whether the bank-guarantee precondition for bail could be maintained. The Court noted that comparable monetary deposit or guarantee conditions had been disapproved. It relied on *Subhash Chouhan v. Union of India*, Criminal Appeal No. 186 of 2023, decided on 20 January 2023, and *Anatbhai Ashokbhai Shah v. State of Gujarat & Ors.*, Criminal Appeal No. 523 of 2023, decided on 17 February 2023. Finding the facts identical for this purpose, it saw no reason to depart from those decisions. Paragraph 8 recounts the ASG's concession in *Subhash*; it does not record a new concession by counsel in *Makhijani*. The order states that both sides were heard but does not separately summarize their current arguments.

Pinpoint: Paragraphs 2 and 6–10, official PDF pages 1–3. The ASG statement belongs to the earlier *Subhash* proceeding: paragraph 8, pages 2–3.

03 Judicial decision and operative relief

After granting leave, the Court set aside the bank-guarantee condition as unsustainable. It preserved the remaining conditions imposed by the Chief Judicial Magistrate and upheld by the High Court, directed the appellant's release on bail, allowed the criminal appeal and disposed of pending applications. The order does not list the surviving conditions or determine any tax demand or criminal charge.

Pinpoint: Grant of leave, official PDF page 1; paragraphs 11–14, pages 3–4; matching ROP, pages 5–6.

04 In favour of

Appellant, on removal of the bank-guarantee bail condition and release subject to surviving conditions.

In favour of the appellant on the challenged ₹1.5 crore guarantee condition, with release directed subject to the surviving bail terms. This is a final disposition of the Supreme Court appeal concerning bail, while the underlying prosecution and tax merits were not adjudicated.

Pinpoint: Paragraphs 11–14, official PDF pages 3–4; ROP, pages 5–6.

05 AKHB REVIEW POINT

AKHB analysis: Cite this decision for its treatment of the challenged monetary bank-guarantee condition and its express reliance on Subhash and Anantbhai. Obtain the lower-court bail orders to identify the conditions that remain operative. Do not confuse a bail-condition deposit with the statutory pre-deposit for a GST appeal, or imply that every security or bail bond is prohibited. Section 69 concerns arrest powers and should not be described as a standalone offence merely because paragraph 3 groups it with section 132(1)(a). The Court did not determine the validity of the arrest, assess GST, decide guilt or order repayment of an already deposited sum.

Pinpoint: AKHB commentary based on paragraphs 3–14, official PDF pages 1–4; no additional judicial holding.

Sources and limitations

Relevant provisions

Central Goods and Services Tax Act, 2017: section 69 (arrest power) and section 132(1)(a), mentioned in paragraph 3.

Code of Criminal Procedure, 1973: section 437, the provision under which bail was sought from the Chief Judicial Magistrate.

Statutory note

Paragraph 3 uses a shortened name for the Central Goods and Services Tax Act, 2017 and groups sections 69 and 132(1)(a) together. This note preserves the statutory references while distinguishing section 69's arrest power from the offence provision. Section 437 CrPC is the historical bail provision expressly named. No current statutory-version certification, or ruling on the validity of those provisions, is implied.

Treatment note

The official original was checked on 18 October 2026. Its express reliance on Subhash Chouhan and Anantbhai Ashokbhai Shah is verified from paragraphs 7–10. A comprehensive later review, clarification, cancellation-of-bail or prosecution-docket check has not been completed. The note describes the decision as delivered, and does not certify present compliance or current statutory applicability.

Scope of source review

All six PDF pages read and visually inspected: signed order on pages 1–4, followed by the matching ROP on pages 5–6. The substantive order is numbered through paragraph 14; the opening grant of leave is unnumbered. The printed appeal/SLP numbers, date, bench and relief agree. Decision date is 19 April

2023; the electronic signature timestamp is 20 April 2023. No separate cryptographic-signature certification is made.

Source identity notes

Criminal Appeal No. 1193 of 2023, arising out of Special Leave Petition (Criminal) No. 2868 of 2023

Primary source

Source description: Official Supreme Court signed order and matching record of proceedings.

Official source:

https://api.sci.gov.in/supremecourt/2023/8341/8341_2023_13_19_43722_Order_19-Apr-2023.pdf

Source pages: 6

Outcome type: Final reasoned disposal of a criminal appeal after grant of leave, confined to a bail condition.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official Supreme Court source identified in this note. No human legal review is claimed.

General disclaimer: For professional information only; not legal advice. Read the complete decision and applicable law, verify subsequent treatment and obtain case-specific professional advice before acting.

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Source checked: 18 October 2026