

News

After the Gujarat High Court declines to step in, the Supreme Court stays the police summons to the attorney.



The larger question of whether investigative authorities can call attorneys in connection with their clients' cases was also taken up by the Court on its own initiative.

The Gujarat High Court's decision to not postpone a summons sent to a lawyer by the State police was overturned by the Supreme Court on Wednesday.

On March 24, the police summoned advocate Ashwinkumar Govindbhai Prajapati under Section 132 of the Bharatiya Sakshya Adhinyam in connection with a case pertaining to the Gujarat Money Lenders Act, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and the Bharatiya Nyaya Sanhita.

A month prior, Prajapati, a lawyer since 1977, had defended Panchal Princekumar

Bhavanishankar, an accused person, in a bail request in a case involving a loan transaction. On February 25, a Sessions Court granted Bhavanishankar bail based on Prajapati's argument.

Prajapati filed a case in the Gujarat High Court after receiving a notification from the police. On June 12, Justice **Hasmukh D. Suthar** stated that since the summons was given in the witness's capacity, there was no reason to consider Prajapati's plea. The High Court determined that the petitioner's fundamental rights had not been violated.

After hearing a plea from Prajapati challenging the High Court ruling, the bench of **Justices KV Viswanathan and N Kotiswar Singh** stayed both the summons and the High Court verdict today.

"There shall be a stay on the High Court order and a stay on the operation of summons and any other notices issued to the petitioner," the court was told.

Additionally, the Court took suo motu attention of the broader question of whether the investigating authorities can be allowed to immediately summon the attorneys in connection with their clients' cases.

Speaking on behalf of Prajapati, **Senior Advocate Siddhartha Dave** said that the petitioner could not be called upon since the information was confidential.

Prajapati contended in his appeal before the highest court that the High Court denied his petition because his attorney was not present.

"The petitioner's advocate was unable to make it to the courtroom when the matter was taken up, two minutes before the end of the recess. The petition claimed that the Hon'ble High Court denied the petitioner a fair and reasonable opportunity to be heard by dismissing the petition without providing a chance for representation.

He said that the High Court did not recognize that he was neither a material witness to the case's facts nor an accused person, *"but was being compelled solely due to his professional role as an advocate, which is impermissible under the law."*

It was argued that Prajapati had no personal involvement in the case beyond his professional responsibilities and that it just concerned a disagreement between the accused and the

complainant.

The [High] court has set a risky precedent by maintaining the notice, which might be used to intimidate advocates for controversial clients or causes, undermining the criminal justice system and going against the public interest. It was argued that the investigating agency's conduct seemed to be a colorable use of power meant to put pressure on the petitioner and jeopardize the rights of the accused.

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