

ITEM NO.22

Court 3 (Video Conferencing)

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 6738/2021

(Arising out of impugned final judgment and order dated 17-06-2021 in ABLAPL No. 8511/2020 passed by the High Court Of Orissa At Cuttack)

SUMAN CHATTOPADHYAY

Petitioner(s)

VERSUS

REPUBLIC OF INDIA

Respondent(s)

(FOR ADMISSION and I.R. and IA No.111887/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.111888/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 29-10-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s)

Mr. Vikas Singh, Sr. Adv.
Mr. Pijush K. Roy, Adv.
Ms. Deepeika Kalia, Adv.
Ms. Kakali Roy, Adv.
Mr. Kapish Seth, Adv.
Mr. Abhishek Kaushik, Adv.
Mr. Rajesh Kumar Chaurasia, AOR

For Respondent(s)

Mr. Tushar Mehta, S.G.
Mr. S.V. Raju, ASG
Mr. K.M. Natraj, ASG
Mr. Shailesh Madiyal, Adv.
Mr. Rajat Nair, Adv.
Mr. Adit Khorana, Adv.
Ms. Sairica Raju, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Rahul Mishra, Adv.
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

This special leave petition assails the order of the

High Court refusing to grant anticipatory bail as prayed by the petitioner in connection with offence registered as CBI/EO-IV/Kolkata Case No. RC 45 (S) of 2014 corresponding to SPE No. 40 of 2014 pending in the file of the learned Special C.J.M (CBI), Bhubaneswar.

In connection with any other offence, the petitioner had approached this Court by way of SLP(Crl.) No. 2895 of 2020, wherein the Court passed the following order on 22.07.2020:

"Given that the petitioner is currently in the Apollo Hospital in Bhubaneswar with serious heart trouble and lung infections and may therefore, be even more prone to Covid-19 than other prisoners, we think this one good reason for releasing the petitioner on bail. The petitioner be released on bail to the satisfaction of the trial court immediately.

The special leave petition stands disposed of.

Pending applications stand disposed of."

In the present petition also, the petitioner has invoked the ground of poor health condition. For taking this plea forward, this Court called upon the Director, AIIMS, New Delhi to require the petitioner to undergo medical checkup before a Board at New Delhi, which submitted its report, the relevant part whereof has been extracted in order dated 04.10.2021 which read thus:

".... The petitioner is a diagnosed case of

Diabetes Mellitus, Chronic obstructive pulmonary disease. Hypertension, Coronary Artery Disease, Carpal Tunnel Syndrome and Depressive illness. At the point of current assessment, the petitioner is in a stable medical condition on treatment. He requires regular, periodic follow up with the respective specialists on an outpatient basis for his ongoing conditions. There is no indication for his hospitalization as on date."

Today, during the hearing Mr. K.M. Natraj, learned Additional Solicitor General pointed out the involvement of the petitioner specially in two transactions in the sum of Rs.1.04 crores and Rs. 50 lakhs. According to learned Additional Solicitor General, the petitioner was not offering any explanation and was giving evasive reply during the interaction with the Investigating Officer.

The petitioner, on the other hand, filed rejoinder affidavit and has given explanation about the two transactions on affidavit admitting certain facts as well in paragraphs 5(VI) and 10(b) of the rejoinder affidavit, which read thus:

"5(VI) The agreement also stipulated," in the case of stalemate... the buyer and seller will jointly appoint an independent sole Arbitrator whose decision shall be final, however without causing prejudice to the same sufficient importance shall be given to Suman Chattopadhyay"s suggestion. Accordingly we sought the help of one Sudip Roy Choudhury, owner of a reputed advertisement agency to help us arrive at a settled amount. So

whatever was done was within the framework of agreement. Soon after the CbI interrogated the petitioner in Kokata in November 2014, the Enforcement Directorate interrogated him on four occasions that led to attachment of his property and bank balance amounting to 1.72 crores, 68 lacs more than the so called disputed amount of 1.04 crores. The petitioner pledges to return the amount of Rs. 1.04 crores provided the ED releases all attached properties. The petitioner seeks a direction of the court in this regard.

10(b). With regard to non disclosure of Rs 50 lacs that the petitioner got clandestinely and did not disclose is absurd at its best and ludicrous at its worst. The exact amount is Rs. 49 lacs that the Petitioner received by way of salary from Sarada. This was as per a service contract signed on August 3 2010 between the petitioner and Sudipta Sen and all payments were made by cheque. The petitioner did not get what was agreed upon. At the same time he did not pocket the amount. He invested Rs. 25 lacs in his newspaper and returned the remaining Rs. 24 lacs as part of the settlement package. The petitioner had stated this in writing to the Ed and explained to CBI when asked."

After this was pointed out by the learned counsel for the petitioner, learned Additional Solicitor General submits that there are some more transactions which need to be explained by the petitioner.

We have no manner of doubt that the petitioner is under obligation to explain the transactions by making himself available before the Investigating Officer.

He shall appear before the Investigating Officer on 02.11.2021 at 11:00 a.m.

The Investigating Officer is free to put him questionnaire to which the petitioner may respond appropriately.

List this matter on 15.11.2021.

Until then, the petitioner is given interim protection in terms of this order in connection with the stated case subject to condition that he will make himself available as and when called upon by the Investigating Officer and also deposit his passport by tomorrow, i.e., 30.10.2021 in the Trial Court, if already not deposited.

Mr. Vikas Singh, learned senior counsel appearing for the petitioner submits that the passport of the petitioner is already deposited in the Special CJM(CBI), Bhubaneswar.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)