

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

SLP (Cr1.) No.7749/2017

In this case, it appears that after investigation, the CBI has filed initial charge-sheet. However, further investigation was carried out which resulted in filing of first and thereafter second supplementary charge-sheets. When the original charge-sheet was filed and non-bailable warrants were issued against the petitioner, he had challenged the same and had approached this court. This court had permitted the petitioner to approach the trial court for filing of application for regular bail. He did not do so. In the meantime, in the supplementary charge-sheet non-bailable warrants were issued and against the issuance of said non-bailable warrants as well as for quashing of charge-sheet, the petitioner filed petition under Section 482 of the Code of Criminal Procedure, 1973 in which the impugned order has been passed by the High Court. The High Court has rightly held that it is not a fit case for quashing as the investigation is at the initial stage.

In these circumstances, Mr.Mukul Rohatgi, learned senior counsel, has limited his argument to the prayer so far as it relates to issuance of non-bailable warrants against the petitioner. Apart from what is stated above, we find that even before the High Court the petitioner had inclined to appear before the Special Judge, CBI within two weeks to apply for regular bail. It is on the basis of the aforesaid statement that the High Court has stayed the non-bailable warrants.

In view of the above, we are not inclined to go into the legal issues raised by the petitioner in this special leave petition. However, we grant further two weeks' time to the petitioner to apply for regular bail before the Special Judge, CBI with a direction to the trial court to consider the said application for bail forthwith. In the said bail application it would be open to the petitioner to raise all the contentions which are available to him in law.

With the aforesaid observation, the special leave petition stands disposed of.

SLP (Cr1) No.7754/2017

It is stated by learned counsel for the petitioner that his name was not given in the original charge-sheet and his name surfaced for the first time in the supplementary charge-sheet. It was undertaken by the petitioner before the High Court that he shall appear before the Special Judge, CBI after two weeks with regular bail application.

Be that as it may, the reasons stated in the aforesaid matter, i.e. SLP (Cr1.) No.7749/2017, shall apply to this case also as a whole. The special leave petition stand disposed of in the same terms.

SLP D.No.37614/2017

We are informed that pursuant to the impugned order passed by the High Court on 2nd August, 2017, the petitioner had surrendered before the Special Judge, CBI and applied for regular bail. However, the Special Judge, CBI has dismissed the bail application.

Therefore, this special leave petition is rendered infructuous. It would be open to the petitioner to challenge the order rejecting her bail or apply for fresh bail by approaching the High Court.

We may record the submission of Mr. Mukul Rohatgi, learned senior counsel, that the position in law is that when there was no arrest during investigation, on filing the charge-sheet by the CBI, the trial court could not have issued non-bailable warrants straightaway. As per him, in a case like this, the proper action is to issue summons only. In support of his submission Mr. Rohatgi has referred to several judgments of different High Courts as well as this Court. This contention is refuted by Ms. Pinky Anand, learned Additional Solicitor General.

In view of the submission recorded above, it may not be necessary to go into the merits of the arguments in these proceedings. However, we make it clear that when such a plea is raised before the High Court in future, the High Court should decide it on merits.

The special leave petition is dismissed as infructuous.

(ASHOK RAJ SINGH)
COURT MASTER

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