

REVISED

ITEM NO.301

Court 4 (Video Conferencing)

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 4634/2014

(Arising out of impugned final judgment and order dated 30-04-2014 in CRLA No. 1132/2012 passed by the High Court of Judicature at Bombay)

VIJAY MADANLAL CHOUDHARY & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([ONLY W.P.(CRL.) NOS. 91/2020, 93/2020, 140/2020, 239/2020, 271/2020, 285/2020, 286/2020, 311/2020, 385/2020, 404/2020, 301/2021, 283/2021, 282/2021.SLP(CR1.) NOS. 618/2020, 3474/2020, 2435/2021, 4834/2021, 4835-36/2021, 5252/2021.T.C.(CRL.) NO. 4/2018.CRL. APPEAL NOS. 391-392/2018 AND DIARY NO. 22529/2018 TO BE LISTED])

WITH

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Date : 30-07-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Parties:

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Mr. Siddharth Luthra, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
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Mr. Shri Singh, Adv.
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Mr. Bharat Monga, Adv.
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Mr. Asif Ahmad, Adv.
Mr. Ankit Roy, Adv.

Mr Naveen Malhotra, Adv.

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Ms. Radha Tarkar, Adv.

Mr. Shivam Sharma, Adv.
Mr. Raj Kishor Choudhary, AOR
Mr. Varun Raghavan, Adv.
Mr. Shakeel Ahmed, Adv.
Ms. Malvika Raghavan, Adv.
Ms. Richa Pandey, Adv.
Mr. Anupam Bhati, Adv.
Mr. Nakul Chaudhary, Adv.

Mr. Anshuman Sinha, Adv.
Mr. Vijay Pande, Adv.
Ms. Jaikriti S. Jadeja, AOR
Ms. Pragya Sharma, Adv.

Mr. Sanjay Kapur, AOR
Ms. Megha Karnwal, Adv.
Mr. V.M. Kannan, Adv.
Mrs. Shubhra Kapur, Adv.
Mr. Arjun Bhatia, Adv.

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Ms. Ashima Mandla, Adv.

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Ms. Nupur kumar, Adv.
Mr. Prastut Dalvi, Adv.
Mr. Darpan Sachdeva, Adv.
Mr. Shubham Sharma, Adv.

Mr. Malak Manish Bhatt, AOR
Mr. Gautam Khazanchi, Adv.
Ms. Neeha Nagpal, Adv.

Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.

Mr. Ashok Panigrahi, Adv.
Mr. B. Krishna Prasad, AOR

Mr. Rohit Sharma, Adv.
Mr. Atul Agarwal, Adv.
Mr. Kumar Dushyant Singh, AOR

Mr. Syed Ahmed Saud, Adv.
M/s. Shakil Ahmad Syed, AOR

Mr. Balaji Srinivasan, AOR

Mr. O. P. Gaggar, AOR

Mr. M. T. George, AOR

Ms. Rooh-e-hina Dua, AOR

Mr. S. K. Verma, AOR

Mr. Rishi Malhotra, AOR

Ms. Natasha Dalmia, AOR

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

W.P.(Cr1.) No.283/2021

This is a fresh matter pertaining to the batch of cases, notified for hearing on 3rd August, 2021.

No ex-parte ad-interim relief can be granted.

The petitioner(s) must first serve advance copy of the petition on the Central Agency and the standing counsel for the State of Maharashtra.

List the matter on 03.08.2021 along with No(s). SLP(Cr1.)No.4634/2014 and connected cases.

W.P.(Cr1.) No.282/2021, 91/2020, 93/2020, 239/2020, 286/2020, 285/2020, 311/2020, 404/2020

In these writ petitions, besides challenging the constitutional validity of the relevant provision(s), the petitioner(s) are also praying for quashing of proceedings and during the pendency of the writ petition(s) to grant interim relief of staying of further proceedings relating to summons under Section 50 of the Prevention of Money Laundering Act, 2002, issued by the concerned authority and direct no coercive step be taken against the petitioner(s) in connection with the summons so issued.

As regards the first part of the interim relief, not even a single order has been brought to our notice where such relief is granted.

The petitioner(s) are relying on orders passed in other connected cases directing no coercive steps be taken against concerned writ petitioners.

As regards that order, learned Solicitor General commended to us that it is time that even those orders need to be reconsidered. He has relied on order passed by three Judge Bench of this Court to buttress this submission.

As that order has already been passed in few number of cases, which are coming up for hearing on 03.08.2021, it would be appropriate to list these matter(s) along with those cases so that similar orders are passed in all cases with regard to interim relief of no coercive steps, as prayed.

Accordingly, these petitions be listed on 03.08.2021 along with SLP(Cr1.)No.4634/2014 and connected cases, on which date, the request to grant ad-interim relief, at least of no coercive steps be taken against the petitioners as granted in the other cases, will be considered.

SLP(Cr1.)No.4834/2021

Heard counsel for the parties.

Considering the fact that the petitioner (Shyam

Kishore Gupta) is in custody in connection with the stated offence since 13.03.2020, coupled with the fact that the investigation is completed and charge-sheet has also been filed, including the fact that provisional attachment of properties of the petitioner have been confirmed against him and as per the prosecution case, the amount as regards the petitioner is concerned, is only rupees four crores, in the interest of justice, we direct release of the petitioner on interim bail in connection with Complaint Case No.ECIR No.RNSZ0/02/2017 dated 25.08.2017 on such terms and conditions to be imposed by the trial Court, making it amply clear that the petitioner should report to the Investigating Officer periodically and also make himself available before the Court whenever the matter is proceeded before the Court.

It will be open to the trial Court to direct the petitioner to deposit his passport with the trial Court and may impose other conditions as may be necessary for the release of the petitioner.

We make it clear that this order has been passed in the facts and circumstances of the present case.

List the matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021, for hearing.

The interim relief to continue till further orders, to be passed by this Court.

SLP(Cr1) No.4835-4836/2021

List these matters along with Special Leave Petition (Cr1.) Diary No.28906/2019 and other connected cases on 3rd August, 2021.

Cr1.A.No.391-392/2018

I.A. No.987756/2021 for de-tagging the present criminal appeals from Criminal Appeal No.1269 of 2017 is not pressed. Hence disposed of accordingly.

Learned Additional Solicitor General prays for time to take instructions in reference to relief claimed in I.A. No.89201/2021.

List I.A. No.89201/2021 together with Criminal Appeal Nos.391-392 of 2018 along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

T.C.(Cr1.) No.4/2018

I.A. No.72722/2021- This application deserves to be allowed in terms of prayer clause (a) in light of condition No.(iv) of order dated 22.02.2021, which is a self-operating order. We order accordingly.

The amount be released forthwith subject to

verification.

Diary No.22529/2018

List this matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

Liberty is granted to the respondent(s) to file additional paper-book of left out documents, which were part of the record before the High Court.

W.P.(Cr1.) No.140/2020

Learned counsel for the petitioner, in all fairness, submits that I.A. No.23302 of 2021 has become infructuous and may be dismissed as such. We order accordingly.

List the writ petition along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

SLP(Cr1.) No.618/2020

Mr. Aman Lekhi, learned Additional Solicitor General appearing for the respondent, submits that the co-accused associated in the commission of offence along with the petitioner herein are

absconding, as a result of which, the trial has not proceeded so far.

He further submits that he has advised the Investigating Officer to file an application to segregate the trial so far as the petitioner herein is concerned. That application, we are told, is being filed very shortly.

Mr. Sidharth Luthra, learned senior counsel appearing for the petitioner, submits that co-accused has been released on interim bail.

Let copy of that order be placed on record and also an affidavit pointing out as to how parity can be claimed by the petitioner.

List the matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

SLP(Cr1.) No.3474/2020

It is not in dispute that the respondent is in custody in connection with some other case. Hence, there is no urgency to consider interim bail application (I.A. No.59525/2021).

Let the application (I.A. Nos.59525/2021 and 101404/2020) be listed together with the main petition on 3rd August, 2021 along with

SLP(Cr1.)No.4634/2014 and connected cases.

In the event an order to release the respondent herein is passed in the other criminal case, it will be open to the respondent to renew prayer for immediate hearing of interim bail application.

W.P.(Cr1.) No.271/2020

Learned counsel for the petitioner seeks permission to withdraw this writ petition with liberty to pursue other remedies as may be available to the petitioner, including applying for discharge, quashing or bail. That be considered on its own merits in accordance with law. We order accordingly.

W.P.(Cr1.) No.385/2020

List I.A. No.1995/2021 - application for vacating of interim order together with the writ petition on 3rd August, 2021 along with SLP(Cr1.)No.4634/2014 and connected cases.

SLP(Cr1.) No.2435/2021

List the matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd

August, 2021.

W.P.(Cr1.) No.301/2021

Petitioner(s) to serve advance copy of the petition on the standing counsel for the respondent.

List the matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

SLP(Cr1.) No.5252/2021

As the provisional attachment order has been made final, which order is the subject matter of challenge in this special leave petition, the petitioner undertakes through counsel to maintain status quo with regard to the property in question until further orders to be passed by this Court.

In that view of the matter, the eviction notice issued on 16th July, 2021 by the office of Joint Director, Directorate of Enforcement, Bengaluru Zonal Office, shall be kept in abeyance till the further hearing of the main petition i.e. SLP(Cr1.) No.5252/2021.

List the matter along with
SLP(Cr1.)No.4634/2014 and connected cases on 3rd
August, 2021.

(NEETU KHAJURIA)
COURT MASTER

ANITA RANI AHUJA
ASSISTANT REGISTRAR

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Mr. Rishi Malhotra, AOR

Ms. Natasha Dalmia, AOR

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

W.P.(Cr1.) No.283/2021

This is a fresh matter pertaining to the batch of cases, notified for hearing on 3rd August, 2021.

No ex-parte ad-interim relief can be granted.

The petitioner(s) must first serve advance copy of the petition on the Central Agency and the standing counsel for the State of Maharashtra.

List the matter on 03.08.2021 along with No(s). SLP(Cr1.)No.4634/2014 and connected cases.

W.P.(Cr1.) No.282/2021, 91/2020, 93/2020, 239/2020, 286/2020, 285/2020, 311/2020, 404/2020

In these writ petitions, besides challenging the constitutional validity of the relevant provision(s), the petitioner(s) are also praying for quashing of proceedings and during the pendency of the writ petition(s) to grant interim relief of staying of further proceedings relating to summons under Section 50 of the Prevention of Money Laundering Act, 2002, issued by the concerned authority and direct no coercive step be taken against the petitioner(s) in connection with the summons so issued.

As regards the first part of the interim relief, not even a single order has been brought to our notice where such relief is granted.

The petitioner(s) are relying on orders passed in other connected cases directing no coercive steps be taken against concerned writ petitioners.

As regards that order, learned Solicitor General commended to us that it is time that even those orders need to be reconsidered. He has relied on order passed by three Judge Bench of this Court to rebut this submission.

As that order has already been passed in few number of cases, which are coming up for hearing on 03.08.2021, it would be appropriate to list these matter(s) along with those cases so that similar orders are passed in all cases with regard to interim relief of no coercive steps, as prayed.

Accordingly, these petitions be listed on 03.08.2021 along with SLP(Cr1.)No.4634/2014 and connected cases, on which date, the request to grant ad-interim relief, at least of no coercive steps be taken against the petitioners as granted in the other cases, will be considered.

SLP(Cr1.)No.4834/2021

Heard counsel for the parties.

Considering the fact that the petitioner (Shyam

Kishore Gupta) is in custody in connection with the stated offence since 13.03.2020, coupled with the fact that the investigation is completed and charge-sheet has also been filed, including the fact that provisional attachment of properties of the petitioner have been confirmed against him and as per the prosecution case, the amount as regards the petitioner is concerned, is only rupees four crores, in the interest of justice, we direct release of the petitioner on interim bail in connection with Complaint Case No.ECIR No.RNSZ0/02/2017 dated 25.08.2017 on such terms and conditions to be imposed by the trial Court, making it amply clear that the petitioner should report to the Investigating Officer periodically and also make himself available before the Court whenever the matter is proceeded before the Court.

It will be open to the trial Court to direct the petitioner to deposit his passport with the trial Court and may impose other conditions as may be necessary for the release of the petitioner.

We make it clear that this order has been passed in the facts and circumstances of the present case.

List the matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021, for hearing.

The interim relief to continue till further orders, to be passed by this Court.

SLP(Cr1) No.4835-4836/2021

List these matters along with Special Leave Petition (Cr1.) Diary No.28906/2019 and other connected cases on 3rd August, 2021.

Cr1.A.No.391-392/2018

I.A. No.987756/2021 for de-tagging the present criminal appeals from Criminal Appeal No.1269 of 2017 is not pressed. Hence disposed of accordingly.

Learned Additional Solicitor General prays for time to take instructions in reference to relief claimed in I.A. No.89201/2021.

List I.A. No.89201/2021 together with Criminal Appeal Nos.391-392 of 2018 along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

T.C.(Cr1.) No.4/2018

I.A. No.72722/2021- This application ought to be allowed in terms of prayer clause (a) in light of condition No.(iv) of order dated 22.02.2021, which is a self-operating order. We order accordingly.

The amount be released forthwith subject to

verification.

Diary No.22529/2018

List this matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

Liberty is granted to the respondent(s) to file additional paper-book of left out documents, which were part of the record before the High Court.

W.P.(Cr1.) No.140/2020

Learned counsel for the petitioner, in all fairness, submits that I.A. No.23302 of 2021 has become infructuous and may be dismissed as such. We order accordingly.

List the writ petition along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

SLP(Cr1.) No.618/2020

Mr. Aman Lekhi, learned Additional Solicitor General appearing for the respondent, submits that the co-accused associated in the commission of offence along with the petitioner herein are

absconding, as a result of which, the trial has not proceeded so far.

He further submits that he has advised the Investigating Officer to file an application to segregate the trial so far as the petitioner herein is concerned. That application, we are told, is being filed very shortly.

Mr. Sidharth Luthra, learned senior counsel appearing for the petitioner, submits that co-accused has been released on interim bail.

Let copy of that order be placed on record and also an affidavit pointing out as to how parity can be claimed by the petitioner.

List the matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

SLP(Cr1.) No.3474/2020

It is not in dispute that the respondent is in custody in connection with some other case. Hence, there is no urgency to consider interim bail application (I.A. No.59525/2021).

Let the application (I.A. Nos.59525/2021 and 101404/2020) be listed together with the main petition on 3rd August, 2021 along with

SLP(Cr1.)No.4634/2014 and connected cases.

In the event an order to release the respondent herein is passed in the other criminal case, it will be open to the respondent to renew prayer for immediate hearing of interim bail application.

W.P.(Cr1.) No.271/2020

Learned counsel for the petitioner seeks permission to withdraw this writ petition with liberty to pursue other remedies as may be available to the petitioner, including applying for discharge, quashing or bail. That be considered on its own merits in accordance with law. We order accordingly.

W.P.(Cr1.) No.385/2020

List I.A. No.1995/2021 - application for vacating of interim order together with the writ petition on 3rd August, 2021 along with SLP(Cr1.)No.4634/2014 and connected cases.

SLP(Cr1.) No.2435/2021

List the matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd

August, 2021.

W.P.(Cr1.) No.301/2021

Petitioner(s) to serve advance copy of the petition on the standing counsel for the respondent.

List the matter along with SLP(Cr1.)No.4634/2014 and connected cases on 3rd August, 2021.

SLP(Cr1.) No.5252/2021

As the provisional attachment order has been made final, which order is the subject matter of challenge in this special leave petition, the petitioner undertakes through counsel to maintain status quo with regard to the property in question until further orders to be passed by this Court.

In that view of the matter, the eviction notice issued on 16th July, 2021 by the office of Joint Director, Directorate of Enforcement, Bengaluru Zonal Office, shall be kept in abeyance till the further hearing of the main petition i.e. SLP(Cr1.) No.5252/2021.

List the matter along with
SLP(Cr1.)No.4634/2014 and connected cases on 3rd
August, 2021.

(NEETU KHAJURIA)
COURT MASTER

ANITA RANI AHUJA
ASSISTANT REGISTRAR