

ITEM NO.14

COURT NO.4

SECTION II-A

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

Diary No(s). 9352/2017

(Arising out of impugned final judgment and order dated 27-11-2015 in ABA No. 568/2015 passed by the High Court Of Judicature At Bombay At Nagpur)

PARMESHWAR DEVIDUTT KAYAL

Petitioner(s)

VERSUS

ANAND BAJRANGLAL AGARWAL & ANR.

Respondent(s)

(IA No.94557/2017-CONDONATION OF DELAY IN FILING SLP and IA No.94559/2017-EXEMPTION FROM FILING O.T. and IA No.94558/2017-CONDONATION OF DELAY IN REFILING SLP)

Date : 04-10-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Brajesh Kumar, AOR

For Respondent(s)

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

Delay condoned.

While granting anticipatory bail to the respondent, the High Court, as per the impugned order dated 27.11.2015, observed as follows :-

"The complainant was sent to jail after his arrest was effected and after his release from jail, he lodged the report in question with the Police Station on 7th August, 2015 in respect of the incident which allegedly took place between 21st June, 2015 and 17th July, 2015. Had the incident really taken place during the said period, the complainant was never prevented from filing an FIR from jail, and secondly, if really

the incident of robbery etc. had taken place, no ordinary and prudent person would have waited for such a long time."

In our view, for satisfying itself as to whether the anticipatory bail should have been granted, the observations, which may otherwise reflect on the merits of the case, should have been avoided. Therefore, these observations are expunged.

In the Special Leave Petition, the petitioner has stated that the respondent is misusing the bail and he is threatening the petitioner and his wife and he has also filed a complaint to that effect.

It is for the petitioner to raise all these contentions before the High Court under Section 439(2) Cr.P.C. Without prejudice to such a liberty, this Special Leave Petition is disposed of.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU DIWAN)
ASSISTANT REGISTRAR