

ITEM NO.4

COURT NO.2

SECTION II-B

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). 5986/2022

(Arising out of impugned final judgment and order dated 22-06-2022 in BA No. 3475/2022 passed by the High Court Of Kerala At Ernakulam)

XXX

Petitioner(s)

VERSUS

VIJAY BABU & ORS.

Respondent(s)

(IA No.89222/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.89224/2022-EXEMPTION FROM FILING O.T. and IA No.89225/2022-EXEMPTION FROM FILING AFFIDAVIT and IA No.89247/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(Cr1) No. 6000/2022 (II-B)
(FOR ADMISSION and I.R. and IA No.89489/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 06-07-2022 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s) Mr. Basant R., Sr. Adv.
Mr. Ragenth Basant, Adv.
Mr. Arjun Singh Bhati, AOR
Mr. vishnu Pazhanganat, Adv.
Ms. Urja Pandey, Adv.

Mr. Jaideep Gupa, Sr. Adv.
Mr. C. K. Sasi, AOR
Ms. Meena K. Poullose, Adv.

For Respondent(s) Mr. Siddharth Luthra, Sr. Adv.
Mr. S. Udaya Kumar Sagar, Adv.
Ms. Bina Madhavan, Adv.
Ms. Sweena Nair, Adv.
Mr. Lakshay Saini, Adv.
Ms. Anasuya Choudhury, Adv.

Mr. Angaj Gautam, Adv.

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

These special leave petitions are against an order dated 22.06.2022 passed by the High Court of Kerala, allowing an application for pre-arrest bail filed by the Respondent No.1 herein being Bail Application No.3475 of 2022 under Section 438 of the Code of Criminal Procedure, 1973 (CrPC).

After hearing learned counsel appearing for the respective parties and after considering the pleadings and other materials on record, we are not inclined to interfere with the impugned order allowing the prayer of the Respondent No.1 (petitioner before the High Court) for grant of pre-arrest bail. The conditions for grant of bail under Section 438(2) of the CrPC are implicit in the impugned order. Section 438(2) CrPC is set out hereinbelow for convenience :-

"(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

- (i) a condition that the person shall make himself available for interrogation by a police officer as and when required;
- (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

- (iii) a condition that the person shall not leave India without the previous permission of the Court;
- (iv) such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section."

We are also not inclined to interfere with the conditions imposed in the impugned order for grant of pre-arrest bail, except sub-paragraph (2) of paragraph 27 of the impugned order which reads as under:

"(2) The petitioner can be interrogated for the next seven days i.e. from 27.06.2022 till 03.07.2022 (inclusive) from 09.00 AM till 06.00 PM every day, if required. The petitioner shall be deemed to be under custody during the aforesaid period for facilitating the requirements of investigation."

Sub-paragraph (2) of paragraph 27 shall stand modified by deletion of the words "for the next seven days i.e. from 27.06.2022 till 03.07.2022 (inclusive)".

We make it clear that Respondent no. 1 may be interrogated as and when necessary, even after 03.07.2022. The respondent No.1 shall comply with all other conditions imposed by the High Court as also the conditions for grant of pre-arrest bail enumerated in Section 438(2) of the CrPC which are, as stated above, implicit in the impugned order of the High Court.

The respondent No. 1 (i) shall not leave the State of Kerala without prior permission of the jurisdictional Court; (ii) shall appear before the Investigating Officer as and when called; (iii)

shall not contact or interact with the victim or any of the witnesses; (iv) shall not indulge in any form of attack on the victim or her family through the social media or any other mode;(v) shall not harass, defame, denigrate or ridicule the petitioner or the members of her family in any manner whatsoever or publish or post any comments, writing, picture etc. in relation to the incidents in the social media or otherwise;(vi) shall not commit any other offence while on bail (vii) shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police officer; (viii) if the impounded passport of the Respondent No.1 is returned to the Respondent No.1 or if the Respondent No.1 is issued with a fresh passport, he shall immediately surrender the same to the Investigating Officer.

The Special Leave Petitions stand disposed of accordingly.

Pending applications, if any, stand disposed of accordingly.

(GULSHAN KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(MATHEW ABRAHAM)
COURT MASTER (NSH)