

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 (Cr1) No(s).4829/2013

(From the judgement and order dated 15/05/2013 in MCRC No.3807/2013, of The HIGH COURT OF M.P AT INDORE)

SANDEEP SUNILKUMAR LOHARIYA

Petitioner(s)

VERSUS

JAWAHAR CHELARAM BIJLANI @ SURESH BIJLANI
& ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T., stay, exemption from filing c/c of the impugned order and office report)

WITH SLP(Cr1) NO. 4808 of 2013

(With appln(s) for stay and office report)

Date: 14/06/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA
HON'BLE MR. JUSTICE MADAN B. LOKUR
(VACATION BENCH)

For Petitioner(s) Mr. K.T.S. Tulsi, Sr.Adv.
 Mr. Satyajeet Kumar, Adv.
 Mr. Aadil Singh Boparai, Adv.
 Ms. Abha R. Sharma, Adv.

Mr. Chinmoy Khaladkar, Adv.
Mr. Sanjay Kharde, Adv.
Ms. Asha Gopalan Nair, Adv.

For Respondent(s) Mr. T.S. Doabia, Sr.Adv.
 Mr. Ankur Mody, Adv.
 Ms. Praveena Gautam, Adv.
 Ms. Prerna Mehta, Adv.

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

These special leave petitions have come up before this Court challenging the order passed by the High Court of Madhya Pradesh Bench at Indore in which notice has already been issued by this Court and the impugned order has been stayed. The matter came up before us in the category of 'notice served' cases and on perusal of the impugned order and hearing the counsel for the parties, we are amazed and shocked to see the nature of the order passed by the High Court of Mahdya Pradesh in M.Cr.C. No. 3807 of 2013 whereby the High Court has granted transit bail to the respondent no. 1 even without notice to the State of Maharashtra where the case against the respondent no.1/accused was registered; although admittedly he is an accused in a case under Sections 302, 120B, 34 of the Indian Penal Code, 1860 and under Section 3 and 25 of the Arms Act, which offence took place at Police Station Washi, Navi Mumbai, Maharashtra. The respondent no.1/ accused thereafter applied for anticipatory bail before the High Court of Bombay which was rejected vide order dated 25.02.2013. Thereafter, the respondent no.1/accused appears to have filed an application for anticipatory bail in the nature of transit bail, which in our view

has no provision under the Code of Criminal Procedure, 1973. The High Court of Madhya Pradesh, without considering as to whether the bail application was maintainable before it or not in regard to an incident which took place at Police Station Washi, Navi Mumbai, Maharashtra and the High Court of Bombay had already rejected the anticipatory bail application of the respondent no.1, ignoring the fact that the order of the High Court of Bombay was upheld by this Court in SLP(Cr1) No.2790/2013 vide order dated 29.04.2013. Learned senior counsel for the respondent submitted that one of the matter was dismissed as withdrawn. However, the implication of this order is quite clear that the order of the High Court of Bombay was refused to be interfered with by this Court and the SLP against the same practically was dismissed and the order of the High Court of Bombay was upheld. Thereafter, the respondent no. 1 had also filed a second special leave petition SLP(Cr1.) No. 4297/2013 against the same order, which also was dismissed vide order dated 13.05.2013. In spite of the aforesaid orders, the High Court of Madhya Pradesh entertained anticipatory bail application termed as transit bail application.

It is difficult to comprehend under what provisions and under what authority of law such an application was even registered by the High Court of Madhya Pradesh. In our view it is an absolutely shocking order which has been brought to the notice of this Court, hence we deem it appropriate to direct the Petitioner-State of Maharashtra as also the Petitioner-complainant/son of the deceased to implead the High Court of Madhya Pradesh in these petitions. Thereafter a notice be issued to the High Court of Madhya Pradesh through the Registrar indicating to file reply as to how the bail application of the respondent no.1/accused was even registered by the High Court before it was taken up by the Bench and also as to whether the Bench was apprised of the fact of rejection of his anticipatory bail application by the High Court of Bombay, which was upheld by the Supreme Court of India on two occasions.

List for further arguments on 12.07.2013.

In the meantime the respondent no.1/accused is directed to surrender forthwith before the concerned Trial Court in the State of Maharashtra.

(NAVEEN KUMAR)
COURT MASTER

(S.S.R. KRISHNA)
COURT MASTER