

ITEM NO.44

COURT NO.3

SECTION IIA

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 (Crl.) No(s). 249/2016
(Arising out of impugned final judgment and order dated 23/12/2015
in BA No. 785/2015 passed by the High Court Of Bombay At Nagpur)

DR. GOKARAKONDA NAGA SAIBABA

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(with appln. (s) for permission to file synopsis and list of dates)

Date : 04/04/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. R.S. Cheema, Sr. Adv.
Ms. Rebecca John, Sr. Adv.
Ms. Tarannum Cheema, Adv.
Mr. Harsh Bora, Adv.
Mr. Jawahar Raja, Adv.
Mr. Manvendra Singh, Adv.
for Mr. Sanjay Jain, AOR

For Respondent(s) Mr. Nishant Ramakantrao Katneshwarkar, Adv.
Mr. Arpit Rai, Adv.

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

This Court passed the following order on 29.02.2016:

"We have perused the counter affidavit as also the additional affidavit filed by the State of Maharashtra. We have also heard learned counsel for the petitioner. It emerges that out of 34 witnesses, cited by the prosecution, some of the material witnesses have already been examined whereas 8 further material witnesses are yet to be examined. The names furnished to us by Mr. Ramesh Malhari Dhumal, Sub-Divisional Police Officer, Aheri, Gadchiroli, who is assisting the counsel representing the State of Maharashtra, are as under:

1. Shrikant Pochreddi Gaddewar
2. Ravindra Manohar Kumbhare
3. Ramesh K. Yede
4. Raju Poriya Atram

5. Atul Shantaram Avhad
6. Suhas Prakash Bawche
7. Shri Vyas (JMFC, Aheri)
8. Apekha Ramteke

At the present moment, we consider it just and appropriate to direct the trial court to hold day-to-day trial with effect from 04.03.2016 so as to record the statements of all material witnesses. The statements of the material witnesses, referred to hereinabove, be positively concluded before the next date of hearing.

List again on 04.04.2016."

It is submitted by Mr. Nishant R. Katneshwarkar, learned counsel representing the respondent - State of Maharashtra, that in compliance with the directions issued by this Court, all material witnesses have been examined, and also cross-examined. He further states, that the following formal eight witnesses are still to be examined:

1. Dr. Amitabh Rajan, Additional Chief Secretary (Home), Sanctioning Authority under the Unlawful Activities (Prevention) Act, 1967.
2. Shri K.P. Bakshi, Additional Chief Secretary (Home), Sanctioning Authority under the Unlawful Activities (Prevention) Act, 1967.
3. Francies Pareira, Nodal Officer, Vodafone
4. Rajneesh Kumar, Nodal Officer, BSNL
5. Authorised Signatory, Bharti Airtel
6. Bhavesh Nikam, Scientific Officer, CFSL, Mumbai
7. K.D. Korde, Superintendent, Civil Judge, Senior Division, Gadchiroli.
8. Shri Ramesh Dhumal, Sub Divisional Police Officer, second Investigating Officer.

It is submitted, that if the petitioner is kept under detention for

a period of two days from 16.04.2016, the above mentioned eight witnesses will also be examined. It is the contention of the learned counsel for the respondent, that in case the petitioner is ordered to be released from jail, he is likely to indulge himself in the anti-national activities.

Having given our thoughtful consideration to the submissions advanced at the hands of the learned counsel for the rival parties, specially the undisputed position that the petitioner has never been accused of having misused the concession of bail, we are of the view, that the submission made by the learned counsel for the respondent is extremely unfair. Since all the material witnesses have been examined and cross-examined, the release of the petitioner on bail ought not to have been opposed, especially keeping in mind the medical condition of the petitioner.

In view of the above, we hereby direct the release of the petitioner on bail forthwith. Bail to the satisfaction of the trial Court.

Needless to mention, that the petitioner shall enter appearance before the trial Court, as and when the petitioner is directed to appear before the trial Court, failing which, it shall be open to the trial Court to cancel the concession of bail granted to him.

The instant petition stands disposed of in the aforesaid terms.

(Renuka Sadana)
Court Master

(Parveen Kumar)
AR-cum-PS