



ITEM NO.2

COURT NO.1

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

Petition(s) for Special Leave to Appeal (Crl.) No(s).2269/2023

(Arising out of impugned final judgment and order dated 02-12-2022 in MCRC No. 42612/2022 passed by the High Court of M.P. Principal Seat at Jabalpur)

TOTARAM

Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.34694/2023-EXEMPTION FROM FILING O.T.)

Date : 24-02-2023 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. Suyash Mohan Guru, Adv.
Mrs. Rekha Pandey, AOR
Mr. Nitin Agarwal, Adv.
Mrs. Shruti Singh Chouhan, Adv.
Mr. Raghav Pandey, Adv.
Mr. Sourabh Mulani, Adv.
Ms. Smriti Kumari, Adv.
Ms. Gauri Pandey, Adv.

For Respondent(s)

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

1 By the impugned order dated 2 December 2022, the Single Judge of the High Court of Madhya Pradesh has cancelled the bail which was granted by the trial court on 16 August 2022 to the petitioner. The charge-sheet in respect of

alleged offences punishable under Sections 294, 323, 342, 354 and 506 read with Section 34 of the Indian Penal Code 1860 has been filed on 5 August 2022. Though the application for bail was rejected earlier on 21 July 2022, the trial court granted bail noting that:

- (i) The offence is not punishable with life imprisonment or death; and
- (ii) The other accused have been granted bail.

2 The High Court, while setting aside the order of the trial court, directed the issuance of a notice to the trial court seeking an explanation in regard to the order granting bail.

3 We are, *prima facie*, of the view that this is an eminently fit and proper case for the grant of bail even at this stage. Moreover, there was, *prima facie*, no justification for the High Court to call for an explanation from the trial judge for having granted bail. Such orders of the High Court seriously affect the independence of the district judiciary in considering applications for bail in appropriate cases.

4 We accordingly issue the following directions:

- (i) The petitioner shall be released on bail, subject to such terms and conditions as may be imposed by the trial court in connection with FIR No 354/2022, registered at Police Station Harda, District Harda, Madhya Pradesh;
- (ii) Liberty to serve the Standing Counsel for the State of Madhya Pradesh, in addition;

- (iii) Notice on the *de facto* complainant shall be effected through the SHO of the police station concerned; and
 - (iv) The direction of the High Court calling for an explanation from the trial Judge shall remain stayed.
- 5 List the Special Leave Petition on 6 April 2023.
- 6 Counter affidavit shall be filed in the meantime.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR