

ITEM NO.9

COURT NO.14

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No.18081/2024

[Arising out of impugned final judgment and order dated 26-11-2024 in CRMABA No. 7152/2024 passed by the High Court of Judicature at Allahabad]

MUSHEER ALAM

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

Respondent(s)

IA No. 296696/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 296697/2024 - EXEMPTION FROM FILING O.T.

Date : 17-01-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) :Mr. Sanjay Mani Tripathi, Adv.
Mr. Sri Narayan Shukla, Adv.
Mr. V Elangovan, Adv.
Mr. Suraj Singh, Adv.
Ms. Anu Gupta, AOR

For Respondent(s) :Mr. Rohit K. Singh, AOR
Mr. Gautam Kumar, Adv.
Mr. Shighra Kumar, Adv.

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

1. The petitioner herein has been denied anticipatory bail by the

High Court of Judicature at Allahabad in connection with case Crime No.320/2020, which has now with the filing of the charge sheet culminated in Sessions Case No. 941/2024 for the offence punishable under Sections 13(1) (e) read with 13(2) of the Prevention of Corruption Act, 1988 (for short "the Act, 1988").

2. It appears from the materials on record that a First Information Report came to be lodged at the Kotwali Police Station, district Barabanki for the offence enumerated above. It is the case of the prosecution that the check period between 2002 and 31-5-2009 revealed that the petitioner herein had assets disproportionate to the tune of Rs.1,50,41,908/- to the known sources of his income.

3. In such circumstances, the Anti Corruption Department, Ayodhya, Faizabad, U.P. decided to proceed against the petitioner.

4. We have heard Mr. Sanjay Mani Tripathi, the learned counsel appearing for the petitioner and Mr.Akshat Tiwari, learned counsel appearing for the State.

5. We take notice of the fact that the investigation is over and charge-sheet has been filed in the CBI Court at Gorakhpur.

6. While the investigation was in progress, the Investigating Officer did not deem fit to arrest the petitioner herein.

7. The CBI Court has taken cognizance and has issued summons to the petitioner herein to appear.

8. The learned counsel appearing for the petitioner would submit

that there is a practice in the State of Uttar Pradesh that arrest is effected after the charge-sheet is filed and the Court takes cognizance of the charge-sheet. We do not propose to say anything as regards in this unusual practice except that it makes no sense.

9. We are of the view that once the investigation is over and charge-sheet is filed then the accused should be asked to appear before the Court concerned and should furnish bail to the satisfaction of the trial court.

10. If at all, the Investigating Officer wanted to interrogate the petitioner, he could have arrested him during the course of the investigation itself. Now there is no point in making a formal arrest.

11. In such circumstances, referred to above, we order that the petitioner herein shall appear before the CBI Court, Gorakhpur and furnish bail to the satisfaction of the Court.

12. With the aforesaid, this petition stands disposed of.

13. Pending application(s), if any, stands disposed of.

(CHANDRESH)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)