

VERDICTUM.IN

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ITEM NO.46

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 (CrI.) No(s).9092/2022

(Arising out of impugned final judgment and order dated 24-11-2021 in ABA No. 2803/2021 passed by the High Court of Judicature at Bombay)

VIJAYKUMAR GOPICHAND RAMCHANDANI

Petitioner(s)

VERSUS

AMAR SADHURAM MULCHANDANI & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.122922/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.122923/2022-EXEMPTION FROM FILING O.T.)

Date : 05-12-2022 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s)

Mr. R. Basant, Sr. Adv.
Mr. Naresh Shamnani, Adv.
Mr. Minal Chanchlani, Adv.
Mr. Prashant Shrikant Kenjale, AOR

For Respondent(s)

Mr. Dama Seshadri Naidu, Sr. Adv.
Mr. Deepak Nargolkar, Sr. Adv.
Mr. Soumik Ghosal, AOR
Mr. Gaurav Singh advocate
Mr. Shantanu Phanse, Adv.
Mr. Shivali chaudhary, Adv.
Mr. Hitesh Singh, Adv.
Mr. Gursimar Singh, Adv.

Mr. Aniruddha Joshi, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Ms. Kirti Dadheech, Adv.

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

1 A Single Judge of the High Court of Judicature at Bombay, by an order dated 24 November 2021 in Anticipatory Bail Application No 2803 of 2021, directed that the first respondent should be given 72 hours' notice in the event that the State intends to arrest him on the registration of an FIR making out a cognizable offence. Consequently, the following order was passed:

“8..(i) In the event the respondent finds it necessary to arrest the applicant in connection with any complaint pertaining to cognizable offence at the behest of Mr. Rajesh Jadhawar, Joint Registrar (Audit) with respect to specific report, audit report and special report dated 6th August, 2021 submitted by him to the office of Commissioner of Co-operation and Registrar of Co-operative Societies, Pune, the applicant be given 72 hours advance notice.”

2 The direction issued by the High Court to the effect that 72 hours' notice should be given to the first respondent in the event that the State finds it necessary to arrest him in connection with any complaint pertaining to a cognizable offence at the behest of the Joint Registrar (Audit) is manifestly incorrect in law. (See in this context, **Union of India v Padam Narain Aggarwal & Others**¹). Such a direction could not have been issued by the High Court.

3 The direction to the effect that 72 hours' advance notice should be given to the first respondent before effecting an arrest, in the event of a complaint being registered in respect of a cognizable offence, is accordingly vacated and set aside.

4 We clarify that the first respondent would be entitled to pursue such remedies as are available in law if he is aggrieved by any action taken against him.

5 The petition is accordingly disposed of.

6 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR