

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). 6433/2021

(Arising out of impugned final judgment and order dated 06-08-2021 in SBCRMBA No. 5126/2021 passed by the High Court Of Judicature For Rajasthan At Jaipur)

GAJENDRA SINGH

Petitioner(s)

VERSUS

STATE OF RAJASTHAN & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.106892/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.106893/2021-EXEMPTION FROM FILING O.T. and IA No.106894/2021-EXEMPTION FROM FILING AFFIDAVIT)

Date : 07-12-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE HRISHIKESH ROYFor Petitioner(s) Mr. Sidharth Luthra, Sr. Adv.
Mr. Pankaj Singhal, Adv.
Mr. Sarad Kumar Singhania, AORFor Respondent(s) Dr. Manish Singhvi, AAG
Mr. Ashutosh Shekhar Paarcha, Adv.
Mr. Milind Kumar, AOR
Mr. Arpit Parkash Advocate
Mr. Vikalp Sharma, AdvocateMr. Shiv Mangal Sharma, Adv.
Ms. Abhinandini Sharma, Adv.
Ms. Shrinjan Khosla, Adv.
Mr. Siddhant Puri, Adv.
For M/S. Aura & Co.

UPON hearing the counsel the Court made the following

O R D E R

We have heard learned senior counsel for the petitioner and learned senior counsel for the respondent as also learned counsel for the complainant and have perused the material placed on record.

In this petition against the order dated 06.08.2021, as passed by the High Court of Judicature for Rajasthan, Bench at Jaipur in SB Criminal Bail Application No. 5126 of 2021, this Court, while issuing notice on 03.09.2021, granted interim relief by providing that the petitioner shall not be arrested in connection with FIR No. 485 of 2014, Police Station Kumher, District Bharatpur, Rajasthan.

By the order impugned, the High Court has declined the pre-arrest bail plea of the petitioner in relation to said FIR pertaining to offences under Sections 292, 376, 503 of the Indian Penal Code, 1860 and Section 4/6 of Indecent Representation of Women (Prohibition) Act, 1986 solely on the ground that the petitioner had concealed the fact about filing of Anticipatory Bail Application from this Court in an earlier petition, being SLP (Crl.) No. 2535 of 2021.

As regards the merit of bail plea of the petitioner, it was, *inter alia*, contended that the FIR was filed in the year 2014 in relation to the alleged incident of 2013; that negative final report was submitted in this matter and after a lapse of three years, the complainant filed the protest petition because in the meantime, the petitioner's father had lodged an FIR against the complainant and her relatives in which, chargesheet was filed against them. Though, these and other submissions were noticed in the order impugned but the

High Court proceeded to decline the prayer for pre-arrest bail only for the reason that the petitioner had not disclosed the facts concerning pendency of the bail application before the Supreme Court in the earlier round of litigation.

Learned senior counsel for the petitioner, while not disputing that all the relevant facts in their chronology were not stated before this Court in SLP (Crl) No. 2535 of 2021, has submitted that there has not been any intentional misrepresentation or concealment of any material fact because the said SLP was filed only against the order dated 02.02.2021 taking cognizance. *Per contra*, it has been submitted by the learned senior counsel for the State as also by the learned counsel for the complainant that in fact, the petitioner had also challenged the order passed by the Trial Court issuing non-bailable warrants and while rejecting such a challenge by the order dated 19.02.2021 in SB Criminal Misc. Petition No.1318 of 2021, the High Court specifically directed that the petitioner shall surrender within two months but, the said order was never complied with by the petitioner. In this regard, learned senior counsel for the petitioner would submit that in the application seeking pre-arrest bail as filed before the District and Sessions Judge Bharatpur, the fact about passing of the said order dated 19.02.2021 was indeed stated and there has not been any such material concealment

for which the prayer of the petitioner for pre-arrest bail was to be declined.

We have taken note of the facts and circumstance of the case including the submissions on behalf of the petitioner that there had been a long-drawn animosity of the parties which has, *inter alia*, also led to FIR No. 466 of 2015 involving offences under sections 147, 148, 149, 341 and 307 IPC wherein, amongst others, husband of the present complainant was also a party and then, to FIR No. 732 of 2017 involving, *inter alia*, the offence under Section 302 IPC relating to the incident where the petitioner's father was killed and amongst others, husband of the complainant is said to be an accused person therein and the petitioner is an eye-witness.

Taking the totality of the facts and circumstances into account and without any comments on the merits of the case either way, we are of the view that rejection of pre-arrest bail plea of the petitioner by the High Court, only on the ground that in the previous SLP (bearing No.2535 of 2021) he did not clearly disclose before this Court the pendency of an application seeking pre-arrest bail, cannot be countenanced. The material aspects relating to the background facts as also the surrounding factors have not gone into consideration of the High Court.

We are of the view that in any case, protection granted to the petitioner by the order dated 03.09.2021 deserves to be continued. Accordingly, the said order dated 03.09.2021 is made absolute.

This petition seeking special leave to appeal stands disposed of accordingly.

All pending applications also stand disposed of.

(MEENAKSHI KOHLI)
ASTT. REGISTRAR-cum-PS

(MONIKA DEY)
BRANCH OFFICER