

IN THE SUPREME COURT OF INDIA

**DR. D.Y. CHANDRACHUD; CJI., PAMIDIGHANTAM SRI NARASIMHA; J.**

Special Leave to Appeal (Crl.) No(s).9092/2022; 05-12-2022

**VIJAYKUMAR GOPICHAND RAMCHANDANI**

*versus*

**AMAR SADHURAM MULCHANDANI & ORS.**

**Code of Criminal Procedure, 1973; Section 438 - Anticipatory Bail - Bombay HC direction to give to give 72 hours' notice to an accused in the event the State intends to arrest him - Manifestly Incorrect - Such a direction could not have been issued. Referred to *Union of India v Padam Narain Aggarwal (2008) 13 SCC 305*.**

(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)

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.

**ORDER**

**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***<sup>1</sup>). 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.

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<sup>1</sup> (2008) 13 SCC 305