

**2022 LiveLaw (SC) 200**

**IN THE SUPREME COURT OF INDIA**

**A.S. BOPANNA; HIMA KOHLI, JJ.**

Special Leave to Appeal (Crl.) No(s).1247/2022; 21-02-2022

**RAJESH SETH VERSUS THE STATE OF CHHATTISGARH**

**Code of Criminal Procedure, 1973- Section 438 - Indefinite adjournment in a matter relating to anticipatory bail, that too after admitting it, is detrimental to the valuable right of a person - When a person is before the Court and that too in a matter involving personal liberty, least what is expected is for such a person to be given the result one way or the other, based on the merit of his case and not push him to a position of uncertainty or be condemned without being heard, when it matters.**

**Practice and Procedure - Anticipatory Bail Applications - When an application for anticipatory bail accompanied by an application for ad-interim relief is listed before the court, it should decide the same one way or the other, so far as the ad-interim prayer or should have taken up for consideration after giving some reasonable time to the State. Even if admitted, the court should list the same for final disposal on a specific date - Not giving any specific date is not a procedure which can be countenanced.**

(Arising out of impugned final judgment and order dated 17-01-2022 in MCRCA No.59/2022 passed by the High Court of Chhatisgarh at Bilaspur)

*For Petitioner(s) Mr. Sundeep Srivastava, Adv. Mr. Paran Kumar, Adv. Mr. Shubham Sharma, Adv. Mr. Braj Kishore Mishra, Adv. Mr. Abhishek Yadav, Adv.*

**O R D E R**

The Court is convened through Video Conferencing.

Heard learned counsel appearing on behalf of the petitioner and carefully perused the material placed on record.

The petitioner filed an application under Section 438 Cr.PC seeking grant of anticipatory bail. The same was accompanied with an I.A. seeking ex-parte ad-interim bail/interim protection during the pendency of the main application.

When the application was listed before it on 17.01.2022, the High Court passed the following order:

“Shri Sundeep Shrivastava, counsel for applicant.

Shri Alok Nigam, Govt. Advocate for the State. Shri Goutam Khetrapal, counsel for complainant/objector.

Heard.

Admit.

Call for case diary.

Learned State counsel is directed to verify criminal antecedents of applicant, if any.

List this case for final hearing in due course.”

The main grievance of the petitioner is that the High Court merely admitted the anticipatory bail application filed by him with a further direction to list in due course, but did not consider his I.A. seeking interim protection during pendency of the bail application although co-accused in the same FIR has been granted interim protection from arrest till the final disposal of application for anticipatory bail by the High Court.

Learned counsel for the petitioner submitted that till date, the matter has not been listed for hearing and no order has been passed about the interim protection during the pendency of the anticipatory bail application filed by his client. Learned counsel further submitted that if the petitioner is arrested during the pendency of anticipatory bail application, it would become infructuous and his legal right will be defeated. He therefore seeks to ensure that the matter is heard by the High Court and the valuable right of the petitioner be protected.

Having heard learned counsel for the petitioner and on carefully perusing the impugned order, we are compelled to disapprove the course adopted by the High Court as a matter of procedure. When an application for anticipatory bail was listed before the learned Single Judge, which was also accompanied by an application for *ad-interim* relief, the learned Judge should have decided the same one way or the other, so far as the *ad-interim* prayer or should have taken up for consideration after giving some reasonable time to the State. Even if admitted, the learned Judge should have listed the same for final disposal on a specific date, keeping in view the nature of relief sought in the matter. Not giving any specific date, particularly in a matter relating to anticipatory bail, is not a procedure which can be countenanced.

We are of the considered view that this type of indefinite adjournment in a matter relating to anticipatory bail, that too after admitting it, is detrimental to the valuable right of a person. We make it clear that we have not adverted to the merits involved in the case since it is premature for us to do so at this stage. However, having noted the manner in which the learned Single Judge has dealt with the matter we find it necessary to emphasize that when a person is before the Court and that too in a matter involving personal liberty, least what is expected is for such a person to be given the result one way or the other, based on the merit of his case and not push him to a position of uncertainty or be condemned without being heard, when it matters.

Hence, we request the learned Single Judge of the High Court to dispose of the anticipatory bail application, pending adjudication before him, on its own merits and in accordance with law, expeditiously and preferably within a period of two weeks from the date of receipt/production of a copy of this order. If the main application cannot be disposed of for any reason, the I.A. for interim relief be considered on its own merits.

Till such time, we grant interim protection from arrest to the petitioner herein. We clarify that this shall however not influence the view to be taken by the Learned

Single Judge on merits.

The special leave petition stands disposed of accordingly.

As a sequel to the above, pending interlocutory applications also stand disposed of.

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