

ITEM NO.801

COURT NO.1

SECTION II-B

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

Petition(s) for Special Leave to Appeal (Crl.) No(s).2019/2023

(Arising out of impugned final judgment and order dated 08-02-2023
in BA No. 759/2023 passed by the High Court of Kerala at Ernakulam)

VIJAY KIRGANDUR & ANR.

Petitioner(s)

VERSUS

THE STATE OF KERALA THROUGH
SECRETARY DEPARTMENT OF HOME & ANR.

Respondent(s)

Date : 10-02-2023 This petition was mentioned today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. Ranjit Kumar, Sr. Adv. (mentioned by)
Mr. Shailesh Madiyal, Adv.
Mr. Vinayaka, Adv.
Mr. Mahesh Thakur, AOR

For Respondent(s)

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

- 1 Upon being mentioned, taken on board.
- 2 Mr Ranjit Kumar, senior counsel appearing on behalf of the petitioners, submits that condition (i) in paragraph 12 of the impugned order of the Single Judge dated 8 February 2023 causes serious prejudice because the petitioners are to be interrogated on 12 and 13 February 2023 (Sunday and Monday) and the investigating officer has been permitted to arrest the petitioners on Sunday, in which event they will be produced before the Magistrate twenty four hours thereafter for being released on bail.

3 Moreover, it has been submitted that condition (v) requires the petitioners not to exhibit the film 'KANTARA', together with the music 'VARAHAROOPAM', and could not have been made a condition for the grant of anticipatory bail. Further, it has been submitted that both the suits alleging infringement of copyright were returned for presentation before the Commercial Court and, by an order dated 2 December 2022, the High Court clarified in an FAO that while the order of the trial Judge was being stayed, this would not amount to reviving the injunction which was holding the field during the pendency of the proceedings before the trial court.

4 In the above circumstances, the following order is passed:

- (i) Issue notice, returnable on 24 February 2023;
- (ii) Dasti, in addition, is permitted;
- (iii) Pending further orders, condition 12(i) shall stand modified in the following terms:

“The petitioners shall appear before the investigating officer on 12 February 2023 and 13 February 2023 and, in the event that the petitioners are arrested, they shall be released on bail forthwith subject to the terms and conditions set out in the order of the High Court”; and

- (iv) There shall be a stay of the operation of condition (v) contained in paragraph 12 of the impugned order of the High Court dated 8 February 2023, till the next date of listing.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR