

ITEM NO.37

Court 8 (Video Conferencing)

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 (Crl.) No(s). 3528-3529/2021

(Arising out of impugned final judgment and orders dated 09-04-2021 in ABA No. 6637/2018 13-04-2021 in ABA No. 6637/2018 passed by the High Court Of Jharkhand At Ranchi)

THE STATE OF JHARKHAND

Petitioner(s)

VERSUS

BASIR ANSARI @ MD. BASIR & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.59144/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.59145/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 29-06-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. Arunabh Chowdhury, AAG
Ms. Prgya Baghel, Adv.
Ms. Barnali Chowdhury, Adv.
Mr. Jayant Mohan, AOR

For Respondent(s)

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

The present proceedings arose on account of an application filed for anticipatory bail on 25.09.2018. The anticipatory bail was granted and that was confirmed. That would normally be the end of the matter.

The learned Judge dealing with the jurisdiction, however, proceeded to look into many other aspects

de hors the aspect of anticipatory bail, on account of the alleged conduct of Dr. Swapan Kumar Sarak who had conducted the autopsy and was alleged not to have mentioned that the deceased was pregnant. The said fact is stated to have come to light only when the ultrasound report was filed along with the anticipatory bail application. It is these nature of proceedings which have troubled the State of Jharkhand which has come up in Special Leave Petitions.

Learned counsel, in our view, rightly submits that the orders placed before us do not paint a very happy picture on account of all officers being summoned to Court, more so, in view of this Court having cautioned against unnecessary summoning officers and that too in proceedings of the nature of anticipatory bail where the issue came to an end. His further submission is that if the order dated 13.04.2021 is perused, really nothing would survive as the explanation of the concerned person has been recorded with the assistance of an Amicus Curiae. However, despite that in terms of the impugned orders dated 09.04.2021 and 13.04.2021 even the personal presence has only been deffered and the objective appears to be "betterment of criminal justice system".

We have heard learned counsel for the petitioner and consider it appropriate to dispose of these petitions with the following directions:

a) The proceedings arising before the learned Judge from the anticipatory bail application having been closed, nothing survives in those proceedings;

b) Insofar as the betterment of criminal justice system is concerned, at best it would be a public interest litigation, if something survives in the same. For that purpose, the relevant papers should be placed before the Hon'ble Chief Justice of the High Court on the Administrative Side for examination whether the factual scenario calls upon the matter to be entertained as a public interest litigation or not. If it is so entertained then it should be so registered only as a public interest litigation;

c) There is no requirement of appearance of the officers in pursuance to the impugned directions.

The Special Leave Petitions stand disposed of in

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the aforesaid terms.

Pending applications stand disposed of.

**[ASHA SUNDRIYAL]
ASTT. REGISTRAR-cum-PS**

**[POONAM VAID]
COURT MASTER (NSH)**