

BHASKAR MISHRA

v.

STATE OF MADHYA PRADESH
(Special Leave Petition (CRL) No. 5568 of 2011)

AUGUST 8, 2011

[HARJIT SINGH BEDI AND GYAN SUDHA MISRA, JJ.]

Bail – Repeated applications – Gross misuse of the process of the Court – Case registered u/s.307 IPC – Accused filed application for anticipatory bail u/s.438 Cr.P.C. before the Court of Sessions which was dismissed – High Court however granted anticipatory bail to the accused for a period of four weeks and also directed him to apply for regular bail in the meanwhile – Accused filed application in the Court of Sessions u/s.439 Cr.P.C. for grant of regular bail – Application dismissed – Accused again moved the High Court praying that the period of four weeks granted by the High Court for moving an application for regular bail be extended – High Court extended the time – Accused filed another application in the High Court u/s.438 r/w ss.439 and 482 of Cr.P.C. for grant of regular bail – Application dismissed by the High Court on the ground that the accused was not in custody – Accused filed yet another application for further extending the period of four weeks which too was dismissed – Accused thereupon filed SLP which was dismissed – Accused filed yet another application u/s.438 CrPC before High Court – Application dismissed – Instant SLP against the said order – Held: The accused-petitioner had been absconding and though he was shown great indulgence by the Sessions as well as the High Court on several occasions, the directions issued by the courts were relentlessly flouted – The repeated applications were a gross misuse of the process of the court – SLP dismissed with direction that no further application for bail anticipatory or otherwise will be entertained

A *by any Court until and unless the accused-petitioner deposited a sum of Rupees One Lac before the Court of Sessions as a pre-condition for the consideration of any bail application that he may choose to file – Code of Criminal Procedure, 1973 – ss.438 and 439.*

B *Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, 2011 (1) SCC 694: 2010 (15) SCR 201 – referred to.*

Case Law Reference:

C 2010 (15) SCR 201 referred to Para 3

CRIMINAL APPELLATE JURISDICTION : SLP (Cri.) No. 5568 of 2011.

D From the Judgment & Order dated 29.04.2011 of the High Court of Madhya Pradesh Bench at Indore in M. Cr. C. No. 2171 of 2011.

Vikas Upadhyay, Dr. Vipin Gupta for the Petitioner.

E The following order of the Court was delivered

O R D E R

1. This Special Leave Petition is an example of the gross misuse of the process of the Court. The facts are as under:

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2. A case under Section 307 of the Indian Penal Code was registered against the petitioner in Police Station MIG, Indore, Madhya Pradesh. Apprehending his arrest, he filed an application for anticipatory bail under Section 438 of the Cr.P.C. on the 3rd of September 2010 before the Court of Sessions which was dismissed on the 7th September 2010. The petitioner thereupon filed a similar application before the Madhya Pradesh High Court and on the 24th September 2010 the High Court granted anticipatory bail to the petitioner for a

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period of four weeks and also directed him to apply for regular bail in the meanwhile. The petitioner accordingly filed an application dated 5th of October 2010 in the Court of Sessions, Indore under Section 439 of the Cr.P.C. for the grant of regular bail. The matter was listed on seven different dates between the 5th of October 2010 and the 1st of November 2010 and except for one date (i.e. the 20th October 2010) the petitioner remained absent during the hearing of the bail application pleading sickness. The Sessions Judge finally dismissed the application on the 1st of November 2010. The petitioner again moved the High Court on the 26th October 2010 praying that the period of four weeks granted by the High Court for moving an application for regular bail be extended. The High Court vide its order dated 26th October 2010 extended the time up till 12th November 2010. The petitioner instead of surrendering before the Sessions Court filed another application dated 8th November 2010 in the High Court under Section 438 read with Sections 439 and 482 of the Cr.P.C. for the grant of regular bail. This application was dismissed by the High Court on the 12th of November 2010, by observing that an application under Section 439 would lie only if an accused was in custody. Still undeterred, the petitioner filed yet another application for further extending the period of four weeks which too was dismissed on the 16th of December 2010. The petitioner thereupon filed SLP (CRL) No. 849-850 of 2011 impugning the orders dated 12th November, 2010 and 16th December, 2010 which was dismissed by this Court on the 1st of February 2011. After the dismissal of the SLP, the petitioner filed yet another application under Section 438 of the Criminal Procedure Code before the High Court on the plea that the judgment of this Court in *Siddharam Satlingappa Mhetre Versus State of Maharashtra and Others* [2011 (1) SCC 694] had not earlier been brought to the notice of the High Court or the Supreme Court. This application too has been dismissed by the impugned order dated 29th April, 2011 observing that the cited judgment was not applicable to the facts of the case as four earlier applications for anticipatory bail had been rejected. This

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A order has now been impugned before us.

3. We have heard the learned counsel for the petitioner and gone through the record. The facts reproduced above show that the petitioner has been absconding and though he has been shown great indulgence by the Sessions as well as the High Court on several occasions, the directions issued by the courts have been relentlessly flouted. We are, therefore, of the opinion that the repeated applications are a gross misuse of the process of the court and the matter has to be dealt with in that background. We accordingly dismiss the Special Leave Petition and direct that no further application for bail anticipatory or otherwise will be entertained by any Court until and unless the petitioner deposits a sum of Rupees One Lac before the Court of Sessions at Indore as a pre condition for the consideration of any bail application that he may choose to file. A copy of this order be sent to the Registrar General of the Madhya Pradesh High Court as also to the Sessions Judge who is seized of the matter.

4. The Special Leave Petition is dismissed accordingly.

E B.B.B. Special Leave Petition dismissed.