

ITEM NO.39

COURT NO.9

SECTION IIA

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 (Criminal) No(s).124-126/2005

(From the judgement and order dated 17/11/2004 in TSC No. 2/1996 with 1/97 and 2/97 of The HON'BLE JUDGE IN CHARGE DESIGNATED COURT THANE)

SHYAMSUNDER N.DUBE

Petitioner(s)

VERSUS

JAYENDRA VISHNU THAKUR @ BHAJ THAKUR&amp;ANR.

Respondent(s)

(With appln.(s) for stay and office report)

With  
SLP(Crl.) No.3818-3820/2005

(With appln.(s) for ex-parte stay and exemption from filing c/c of the impugned judgment and office report)

Date: 25/08/2005 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH  
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s)

Mr.Sushil Kumar, Sr.Adv.  
Mr.Adolf Mathew, Adv.  
Mr.Vinay Arora, Adv.

Mr. Sanjay Jain, Adv.

For Respondent(s)

Mr.R.K.Jain, Sr.Adv.  
Mr.Tapesh K.Singh, Adv.  
Mr.Jitendra Mohan Sharma, Adv.

Mr.Ravindra Keshavrao Adsure, Adv.

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

Heard counsel for the parties in this batch of Special Leave Petitions.

Counsel for the State informs us that in these cases, charges

have been

framed against the accused and the trial is likely to commence on 05.09.2005. Counsel for the complainant who is the petitioner before this Court submits that as long as respondent No.1 is a free person, it may be impossible for him to produce evidence at the trial. This is the matter which the petitioner may bring to the notice of the trial court .

So far as the Special Leave Petitions are concerned, we find that the trial court granted interim bail on medical grounds for the first time on 25.11.2003 for a period of one month. Thereafter, it extended it from time to time and till today about twenty four extensions have been granted. We must discourage this practice of granting interim bail on medical grounds and numerous extensions thereafter. It is always open to the Court to grant or refuse bail, but the Court cannot grant interim bail and keep on extending it in the manner it has been done in this case. This virtually amounts to granting regular bail, even without considering the merit of the bail petition.

The trial court was very much impressed by the Report given by the Medical Board which is actually signed by only one member of the Board. The sum total of the Report is that though all the facilities of treatment are available in the Sassoon General Hospital, Pune, in case of emergency, no immediate attention can be given. It is rather unfortunate that such a Report has been submitted by the Board, and we wish to say no further at this stage, except to express our anguish on the casual manner in which the Board has submitted its Report to the Court, perhaps on extraneous consideration. This is a matter which needs detailed inquiry and we have no doubt that the State of

Maharashtra will take a serious view of the matter and hold a proper inquiry to find out whether what is stated in the Report is a bona fide expression of opinion of the Members constituting the Board. Depending upon its findings, the State must take such action as it may think proper.

We dispose of all the Special Leave Petitions with the direction that within four weeks from today, the respondent No.1 will move an application before the trial court for grant of regular bail and the trial court shall dispose it of on merit. Nothing said in this order shall be considered as expression of opinion on the merit of the case.

In case the application for grant of regular bail is refused, the respondent No.1 must be taken into custody forthwith notwithstanding the impugned order. If no such bail

application is filed within the period as specified, the impugned order dated 2nd

August, 2005 shall exhaust itself and respondent No.1 shall be taken into custody

forthwith.

The Special Leave Petitions are disposed of accordingly.

Let a copy of this order be sent to the Chief Secretary, Govt. of Maharashtra, Mumbai, who shall inform this Court of the action taken within four weeks.

( Satish K. Yadav )  
Court Master

( Vijay Dhawan )  
Court Master