

Ør
Crl.A.No. 1289 OF 2001
ITEM No.1A
and 1B
(For Orders)

Court No. 4

SECTION IIA
A/N MATTER

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. 7012/2001

LALU PRASAD @ LALU PRASAD YADAV

Petitioner (s)

VERSUS

STATE OF JHARKHAND

Respondent (s)

(With Appln(s). for exemption from filing c/c of the impugned
Judgment and bail)

WITH

Petition(s) for Special Leave to Appeal (Crl.) No. 7079/2001
(With appln. for bail)

(HEARD BY HON'BLE THOMAS AND PHUKAN, JJ.)@@
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Date : 14/12/2001 These matters were called for
pronouncing the orders.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr. Kapil Sibal,Sr.Adv.
IN 1289 Mr. B.B. Singh,Adv.

For Petitioner (s) Mr. Rajesh Prasad Siingh,Adv.
IN 1290

For Respondent (s) Mr. ADN Rao,Adv.
Mr. P. Parmeswaran,Adv.

The Court pronounced the following
O R D E R

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Hon'ble Mr. Justice K.T. Thomas pronounced the
Order of the Court.
Leave granted.
The appeals are disposed of in terms of the signed
Order.

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(N.K. GOEL) (H.K. BHATIA) @@
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Court Master Court Master@@
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(Signed Order is placed on the file)

the petitioner has not approached the High Court first. The circumstances are these:

These petitioners are involved as accused in six cases, all connected with Bihar Fodder Scam. The conspiracy alleged in respect of all these cases was the same. Lalu Prasad Yadav was arrested on 30.7.1997 in connection with RC 20A of 1997 which is one of the offshoots of the same conspiracy. Similarly he was arrested in connection with RC 64A of 1997 on 28.10.1998. This court had granted bail to him in the latter case on 7.1.1999 on certain conditions and he is abiding by those conditions till

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now. Altogether he has already undergone pre-trial detention for nearly nine months by now. If he has to go to the High Court in challenge of the impugned order all that would ensue as a consequence is prolongation of his detention because the basic order of bail granted by this Court on 7.1.1999 can justifiably be applied to him in the present case also. Learned counsel submitted one more aspect for permitting the petitioner to approach this court directly without approaching the High Court. Special Leave Petition (Criminal) No. 6365 of 2001 was filed by him in challenge of an order passed by Patna High Court in respect of some of the cases connected with Bihar Fodder Scam (one of such cases is RC 47A of 1997) and this court has stayed the arrest of Lalu Prasad Yadav and Jagannath Mishra until the disposal of that Special Leave Petition. He has moved an interlocutory application in the said Special Leave Petition praying that he may be granted bail in RC 47A of 1997 but the said Special Leave Petition has practically become infructuous when a three Judge Bench of this Court has ordered that thirty-six cases connected with Bihar Fodder Scam (including RC 47A) stood transferred to the State of Jharkhand pursuant

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to operation of the provisions of Bihar States Reorganisation Act. It was in the aforesaid context that interlocutory application for bail was heard and dismissed it by this court suggesting that they may first surrender before the trial court and apply for bail.

Shri P.S. Mishra, learned senior counsel arguing for Jagannath Mishra submitted that the petitioner has in fact approached the High Court in challenge of the impugned order but he withdrew the Bail Application No. 9538 of 2001 (R) on 4.12.2001 for approaching this court in Special Leave Petition as his position is substantially on a par with the position of Lalu Prasad Yadav.

In the above peculiar circumstances and the interconnections of the case with the facts in RC 64A of 1997 in which bail was granted to these petitioners by this court, we are not disposed to reject the Special Leave Petitions purely for the purpose of directing them to go to the High Court first before approaching this court. We, therefore, persuade ourselves to entertain these Special Leave Petitions.

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Leave granted.

As the appellants were already in jail for more than six months in connection with cases arising out of Bihar Fodder Scam a plea was made that the benefit granted to the other accused involved in the same case may be granted to these persons also. From 8.5.2001 onwards various accused involved in Bihar Fodder Scam cases were being released on bail by orders of this Court if such accused had already been in jail for about six months. This court did not reject the bail application in respect of any one of the accused arraigned in these series of cases who had remained in jail for six months and above merely on the ground that another offshoot case of the main conspiracy has since been registered or even chargesheeted against him.

The most serious of the offences now pitted against the petitioner is Section 13 of the Prevention of Corruption Act punishable with a maximum sentence of imprisonment for seven years. Having considered the merits of the case including the fact that petitioners were in jail for a period of more than six months by now (which partly includes the pre-trial detention in other connected cases ..6/-

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also) we do not think that further detention of them as pre-trial prisoners would of any necessity in this case.

Shri Mukul Rohtagi, learned Addl. Solicitor General while opposing the bail application submitted that the appellants are very powerful persons and influential and if they are allowed to be at large they would tamper with the evidence, threaten witnesses and impair the progress of the trial. Learned counsel appearing for the appellants submitted that the appellants would not do any of such acts and they are prepared to abide by any condition imposed by this court for ensuring it. As we granted bail to these appellants in the connected cases on stringent conditions in order to allay the fears expressed by the C.B.I. we think it is enough to impose the same conditions in the present cases also.

In the result we order the appellants to be released on interim bail for six months on their executing a bond with two solvent sureties each in a sum of rupees one lac to the satisfaction of the trial court at Ranchi on the following conditions:

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- a) Appellant shall not directly or indirectly or through others make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him to disclose such facts to the court or to any other authority:
- b) he shall remain present before the court on the dates fixed for hearing of the case. If he wants to remain absent then he shall

take prior permission of the court and in case of unavoidable circumstances for remaining absent he shall immediately give intimation to the appropriate Court(AHD) and also to the Superintendent, C.B.I. and request that he may be permitted to be present through his counsel;

c) he will not dispute his identity as the accused in the case;

d) he shall surrender his Passport, if any, (if not already surrendered) and in case he is not a holder of the same he shall swear to an affidavit. If he has already
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surrendered before the designated court that fact should also be supported by an affidavit.

e) he shall not give for publicity his comments or opinion on the merits of the case pending against him, except when he is required to state it in the court concerned.

f) he shall desist from any euphoria demonstration for being bailed out in these cases.

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Appeals are disposed of accordingly.

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(K.T. THOMAS)@@
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(S.N. PHUKAN)@@
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NEW DELHI@@
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DECEMBER 14, 2001 @@
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