



following observations:

"Considering the rival submissions this court, on the basis of the materials put up, cannot arrive at a definite finding on the identity of the person involved in the case. In fact, such an exercise should be undertaken by the Trial Court. However, grave prejudice would be caused to the petitioner, if he indeed is not the person spoken to in the statement of the accused Dayaram Kaluram Kumawat, who was arrested by the respondent police on 06.09.2008.

(emphasis added)

Having made the aforesaid observations, the High Court deemed fit to dismiss the application for anticipatory bail, leaving it open to the petitioner to surrender before the lower court and make a prayer for bail before it.

In the facts and circumstances of the case and especially in view of the High Court's observations, as quoted above, in our view, the proper course would be to let the police first establish the petitioner's identity

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as Lal @ Lal Kumar or to connect him, in any other manner to the offence in regard to which Dayaram Kaluram Kumawat was arrested.

In case the police approaches the Special Judge, NDPS, Madurai, in this regard, the learned Judge will make a proper enquiry in which the petitioner shall extend full cooperation. Until the enquiry is complete, the petitioner shall not be arrested by the police and his arrest shall depend upon the final outcome of the enquiry and any order that may be passed by the Special Judge on the basis of the enquiry.

In case, the police makes an application before the Special Judge, NDPS, Madurai, the petitioner will be given due notice in response to which he would appear before the Court on the date fixed. It is hoped and expected that the Magistrate will conclude the enquiry within two months from the date of the first appearance of the petitioner.

The special leave petition is disposed of with the aforesaid observations and directions.

(Neetu Khajuria)  
Sr.P.A.

(Sneh Bala Mehra)  
Court Master