

ITEM NO.43

COURT NO.8

SECTION II

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 for Special Leave to Appeal (Cr1.) No.11/2019

(Arising out of impugned final judgment and order dated 19-11-2018 in CRMWP No.31621/2018 passed by the High Court Of Judicature At Allahabad)

SHRVAN KUMAR

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

WITH

SLP(Cr1) No.212/2019 (II)

SLP(Cr1) No.12/2019 (II)

SLP(Cr1) No.10/2019 (II)

SLP(Cr1) No.13/2019 (II)

SLP(Cr1) No.112/2019 (II)

SLP(Cr1) No.389/2019 (II)

SLP(Cr1) No.25/2019 (II)

SLP(Cr1) No.386/2019 (II)

SLP(Cr1) No.21/2019 (II)

SLP(Cr1) No.213/2019 (II)

SLP(Cr1) No.725/2019 (II)

SLP(Cr1) No.697/2019 (II)

SLP(Cr1) No.740/2019 (II)

SLP(Cr1) No.789/2019 (II)

SLP(Cr1) No.932/2019 (II)

(FOR ADMISSION and I.R.; and, IA No.15333/2019-EXEMPTION FROM FILING O.T.)

SLP(Cr1) No.1341/2019 (II)

(FOR ADMISSION and I.R.; IA No.18440/2019-CONDONATION OF DELAY IN FILING; IA No.18441/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.18444/2019-EXEMPTION FROM FILING O.T.)

Date : 18-02-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) Mr. Sanjeev Bhatnagar, Adv.
Ms. Rupi Sagar, Adv.
Mr. M.K. Verma, Adv.
Dr. Ashutosh Garg, AOR

Mr. R. Venkataramani, Sr. Adv.
 Mr. Purushottam Sharma Tripathi, AOR
 Mr. Mukesh Kumar Singh, Adv.
 Ms. Vani Vyas, Adv.
 Mr. Ram Chandra Prakash, Adv.
 Mr. Mohit Kaushik, Adv.
 Ms. Sushma Singh, Adv.
 Mr. Amit, Adv.
 Mr. Abhishek Tripathi, Adv.

Mohd. Fuzail Khan, Adv.
 Ms. Shefali Jain, Adv.
 Mr. Joun Abbas, Adv.
 Mr. Jahangeer Ahmad, Adv.
 Mr. Umair Ahmad Siddiqui, Adv.
 Mr. Anil Kumar Tandale, AOR

Mr. Shashwat Goel, Adv.
 Mr. Prabhakar Parnam, Adv.
 Mr. Venkateswara Rao Anumolu, AOR

For Respondent(s) Mr. Ratnakar Das, Sr. Adv.
 Mr. Ajay Vikram Singh, AOR
 Mr. Vishwanath Pratap Singh, Adv.
 Ms. Priyanka Singh, Adv.
 Mr. Kamlesh Anand, Adv.

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

In these matters, notices were issued placing reliance on the order dated 04.12.2018 passed by this Court in SLP (Cr1.) No.10282 of 2018, which reads as under:

"The petition under Article 226 of the Constitution of India was filed by the petitioner seeking quashing of the First Information Report (FIR) dated 06.09.2018 lodged under Sections 3 and 7 of the Essential Commodities Act and Section 420 IPC against the petitioner. While rejecting the challenge seeking quashing of the FIR, the High Court passed the following directions:

"However, in the eventuality in filing the regular bail application by the petitioner before the competent court within three weeks from today, it is expected from the said court to decide his regular bail application in accordance with law."

Mr. Sanjay R. Hegde, learned senior counsel for the petitioner invited our attention to various orders passed by different Benches of the High Court. One such order, in a case involving similar crime under Sections 3 and 7 of the Essential Commodities Act, had granted protection in following terms:

"Considering the submissions advanced by learned counsel for the parties and nature of the allegations, it is directed that the petitioner shall not be arrested in above mentioned case, till the submission of the police report under section 173(2) Cr.P.C. but shall co-operate with the investigation of the case.

After having heard the learned counsel for the petitioner and perused the record, we pass the following directions:

1. The petitioner shall not be arrested in connection with Crime No.0545 registered at Police Station Najibabad, District Bijnor on 06.09.2018, for the offence punishable under Sections 3 and 7 of the Essential Commodities Act and Section 420 IPC till the investigation is complete.
2. If, after the investigation, the Police finds substance in the allegation and files the requisite charge-sheet, the petitioner shall appear on the date in question when the charge-sheet is taken up for consideration by the concerned Court. The police shall appropriately issue notice to the petitioner and ensure his presence on the requisite date.
3. In such eventuality, the petitioner shall keep the application for bail ready, which will be taken up for hearing by the concerned Court immediately.
4. The concerned Court shall consider the matter purely on merits. If the offence is made out, appropriate order shall be passed.

Needless to mention that the petitioner shall extend complete cooperation with the investigating machinery during the investigation and if there be any infraction or violation, the concerned Court shall be approached for consequential directions.

The special leave petition stands disposed of in aforesaid terms.

Pending application(s), if any, shall stand disposed of."

Pursuant to the notice, State of Uttar Pradesh has filed counter affidavit relying upon orders passed by this Court in identical matters, i.e., (1) Order dated 12.11.2018 in SLP (Cr1.) No.8640 of 2018; (2) Order dated 19.11.2018 in SLP (Cr1.) No.9465 of 2018; (3) Order dated 10.12.2018 in SLP (Cr1.) No.10360 of 2018; and, (4) Order dated 04.01.2019 in SLP (Cr1.) No.11023 of 2018. In all these matters, challenges raised to the disposal/dismissal of petitions filed either under Section 482 Cr.P.C. or under Article 226 of the Constitution of India, were rejected by this Court.

It is true that order dated 04.12.2018 was passed granting some relief in favour of the petitioners therein but that relief was granted in the fact situation of the case where the petitioners were of advanced age.

In view of dismissal of petitions by this Court at least on four previous occasions, order dated 04.12.2018 could not be a departure from the settled norm.

We, therefore, see no reason why any departure or exception be made in the present matters. We, therefore, dismiss the present special leave petitions.

Mr. R. Venkataramani, learned senior counsel submits that SLP (Cr1) No.1341/2019, which is listed today, raises an entirely different issue. SLP (Cr1.) No.1341/2019 is, therefore, detagged and ordered to be listed on 19.02.2019.

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER