

ITEM NO.17

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. 2343/2022

(Arising out of impugned final judgment and order dated 18-01-2022 in SBCRMBA No. 18113/2021 passed by the High Court Of Judicature For Rajasthan At Jaipur)

MAULANA MUFTI MAJEED @ NAJIBURHMAN

Petitioner(s)

VERSUS

THE STATE OF RAJASTHAN

Respondent(s)

(FOR ADMISSION and I.R. and IA No.36200/2022-EXEMPTION FROM FILING O.T. and IA No.36199/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES )

Date : 24-03-2022 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE  
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Fuzail Ahmad Ayyubi, AOR  
Mr. Ibad Mushtaq, Adv.

For Respondent(s)

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

The special leave petition is filed against an order dated 18<sup>th</sup> January, 2022, passed by the High Court of Judicature for Rajasthan Bench at Jaipur rejecting criminal miscellaneous bail application No.18113/2021 filed by the petitioner seeking anticipatory bail under section 438 of the Code of Criminal Procedure in connection with FIR No.271/2021 registered at the the Chhabra Police Station in District Baran, Rajasthan.

The petitioner claims to be the Maulana of a Mosque in Chhabra. According to the petitioner, his name is Najeebur Rahman Khan, he at no point of time was known as Maulana Mufti Majeed.

One Hariram (hereinafter referred to as the 'Complainant') lodged a complaint, the relevant part whereof is extracted hereinabove:

"It is requested that I am a resident of village Morela, police station Bapcha. Today on 11/04/21, as I was coming to Chhabra from Bapcha in Dumper No.RJ28GA4510. It was then as I reached in front of Singhvi's petrol pump at around 2.50 pm, Molana Muti Majid and Tilu Muslman, who works on the compressor of Bhagwan Das, resident of Chhabra came along with his 15 to 20 companions with woods and stones in their hands. They broke the window glass of the dumper, then me and my helper Arvind were forced out of the dumper. We were beaten by them."

Pursuant to the aforesaid FIR, investigation was started and a number of people were interrogated. Since the petitioner is the Maulana of the Mosque, he was also interrogated as the name of the first accused in the FIR was Maulana Mufti Majeed.

The petitioner, apprehending arrest, moved the above mentioned application for anticipatory bail, which has been rejected with the following observations:

"Petitioner is named in the FIR and as per rejection bail order, the petitioner has criminal antecedents of one case. Therefore, looking to the above facts and circumstances of the case and gravity of the offence but without expressing any opinion on the merits and demerits of the case, I deem it not proper to enlarge the petitioner on anticipatory bail."

It is submitted that the application for anticipatory bail was filed at a time when the Covid-19 pandemic was raging. The

petitioner had given instructions to his lawyer and affixed his signature hurriedly at the places indicated by his lawyer, the petitioner somehow signed the petition and returned it to the lawyer. The lawyer who had been engaged on behalf of numerous clients, inadvertently described the petitioner as Maulana Mufti Majeed alias Najiburhman in the bail petition.

On behalf of petitioner it is argued that this is a case of mistaken identity. The High Court erroneously made the above observations, which pertain to the first accused in the FIR, Maulana Mufti Majeed, in the impugned order passed in the application of the petitioner for anticipatory bail.

If what is submitted in Court is correct, the petitioner has invited trouble for himself by filing a misconceived application for anticipatory bail, in which he has been described as Maulana Mufti Majeed alias Najiburhman through inadvertence of lawyer engaged by him or through his own negligence.

Any erroneous recording of facts or any error in description of parties to a bail application in the High Court cannot be rectified by this Court. This Special leave petition is misconceived. The remedy of the petitioner lies in making an appropriate application in the High Court itself.

The petitioner shall not be taken into custody for a period of two weeks. In the meanwhile he may immediately approach the High Court for appropriate relief.

The special leave petition is, accordingly, disposed of.

Pending applications, if any, stand disposed of accordingly.

(ARUSHI SUNEJA)  
SENIOR PERSONAL ASSISTANT

(MATHEW ABRAHAM)  
COURT MASTER (NSH)