

ITEM NO.25 Court 13 (Video Conferencing) SECTION II-A

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**Petition(s) for Special Leave to Appeal (Cr1.) No(s). 1758/2022**

**(Arising out of impugned final judgment and order dated 20-01-2022 in ABA No. 158/2022 passed by the High Court Of Judicature At Bombay)**

**JAGDISH SHRIVASTAV**

**Petitioner(s)**

**VERSUS**

**THE STATE OF MAHARASHTRA & ANR.**

**Respondent(s)**

**(FOR ADMISSION and I.R. and IA No.27456/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.27458/2022-EXEMPTION FROM FILING O.T. and IA No.27466/2022-EXEMPTION FROM FILING AFFIDAVIT )**

**WITH**

**SLP(Cr1) No. 2090/2022 (II-A)**

**(FOR ADMISSION and I.R. and IA No.32788/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.32790/2022-EXEMPTION FROM FILING O.T. and IA No.32794/2022-EXEMPTION FROM FILING AFFIDAVIT)**

**Date : 11-03-2022 This petition was called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE AJAY RASTOGI**  
**HON'BLE MR. JUSTICE ABHAY S. OKA**

**For Petitioner(s) Mr. Sunil Fernandes, AOR**

**For Respondent(s)**

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

**Learned counsel for the petitioners informed this Court that after rejection of their Anticipatory Bail Application by the High Court by an Order dated 13<sup>th</sup> January, 2021, they immediately approached this Court for seeking pre-arrest bail.**

Counsel for the petitioners submits that no notice under Section 41(A) Cr.P.C was ever served and after this fact came to the notice of the Investigating officer that SLPs have been preferred by the petitioners for seeking pre-arrest bail, he approached them and took the petitioners into custody on 8<sup>th</sup> March, 2022.

Since the petitioners have now been in custody, it may not be appropriate for this Court to pass further orders but at the same time, we grant them liberty to file regular bail application.

If such an application is filed, it is expected from the Trial Court to take note of non-compliance of Section 41(A) Cr.P.C and dispose of the application for post-arrest bail, if any, filed by the petitioners within a reasonable time as expeditiously as possible.

We deprecate such practice of the Police Officer in overstepping after the matter being instituted in this Court and taking the petitioners into custody without compliance of Section 41(A) Cr.P.C. and keeping in view the judgment of this Court in Arnesh Kumar vs. State of Bihar & Anr. (2014) 8 SCC 273.

The Special Leave Petitions are disposed of in the above terms.

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

(NISHA KHULBEY)  
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)  
COURT MASTER (NSH)