

State of Maharashtra

Vs.

Anand Teltumbde

Order below Exh. 50 in CR No.04/2018 of Vishrambag Police Station (ATS)

1. Accused-Anand Teltumbde has filed this application, for taking action, for initiating appropriate action prescribed by Contempt of Court Act, 1971, against Investigating Officer, on count of illegal arrest.
2. At the outset, I would like to mention here that accused-Anand Teltumbde arrested by Pune Police on 02/02/2019 at about 3.45 a.m. and produced before me at about 03 p.m..
3. Learned counsel for accused submitted that Hon'ble Apex Court, while disposing Special Leave Petition (Cri.) No.59/2019, in last para stated "**We extend the said interim protection for a period of four weeks from today within which the petitioner may seek regular/pre-arrest bail from the Competent Authority, if so advised.**" He further submitted that from this order of Hon'ble Apex Court, it is clear that protection offered to the accused-Anand Teltumbde is in force till 11/02/2019, but police arrested him before completion of said period of protection. He further submitted that rejection of relief under section 438 of the Code of Criminal Procedure by trial court, would not vitiate and set aside relief granted by Hon'ble Supreme Court. He further submitted that State of Maharashtra and Investigating Officer have willfully disobeyed the order of Hon'ble Supreme Court while arresting the accused-Anand Teltumbde.
4. On the other hand, learned Special Public Prosecutor submitted that Hon'ble Apex Court granted four weeks time to file bail application/ anticipatory bail application. She further submitted that protection was not operated after dismissal of application under section 438 of Cr. P. C. before trial court. She further submitted that Hon'ble Supreme Court did not

anticipate that application will be dismissed. She further submitted that trial court rejected anticipatory bail on 01/02/2019 and did not pass any order of protection in the present matter, therefore, impugned arrest cannot be illegal arrest. She further submitted that order of Hon'ble Apex Court, is to move before Competent Authority for regular bail/pre-arrest, if so advised, therefore, order of Hon'ble Apex Court is in the form of permitting accused is to move before Competent Authority. She further submitted that once the accused approaches court of Competent jurisdiction within stipulated period granted by Hon'ble Supreme Court, protection granted by Hon'ble Supreme Court get extinguished and matter would thereafter be governed by whatever such as Competent court passes in regard to subject matter. In support of her submission, learned Special Public Prosecutor has relied on the ruling of Hon'ble Supreme Court in the case – Manish S. Pardasani Vs. Inspector State Excise, P-1 Division, Mumbai (Civil Appeal No.126/156 of 2019) with Dr. (Mrs.) Ashwini Joshi VS. Manish S. Pardasani and others (Civil Appeal No.157 of 2019) decided on 07/01/2019. However with due respect- facts of case in hand and that of supra case- Manish S. Pardasani are quite distinguishable. In the supra case- Manish S. Pardasani , Hon'ble Supreme Court at para No.72 observed that -

" In our considered view, the High Court ought not to have issued directions of this nature. It was legally not permissible to do so. Indeed, the High Court by issuing such directions which are essentially passed in anticipation of the order being passed by an appellate authority, interfered with the judicial independence of an appellant authority in deciding the appeals in accordance with law. "

5. In the present matter, Hon'ble Apex Court in Special Leave Petition (Cri.) No.59/2019 while rejecting Special Leave, at last para observed that " We extend the said interim protection for a period of four

weeks from today within which the petitioner may seek regular/pre-arrest bail from the Competent Authority, if so advised." From this Order of Hon'ble Apex Court, interim protection that means not arrest to the accused, is extended by Hon'ble Apex Court for a period of four weeks i.e. till 11/02/2019. Moreover, **Competent Authority** for seeking regular/pre-arrest bail, include Hon'ble High Court and Hon'ble Supreme Court.

6. Moreover, in Criminal Bail Application No.332/2019, initially, no any ad-interim anticipatory bail was granted to the accused-Anand Teltumbde, therefore, after rejecting application for anticipatory bail, question of moving application by accused-Anand Teltumbde, for interim protection till approaching Hon'ble High Court not arises.

7. Moreover, from the order of Hon'ble Apex Court in Special Leave Petition (Cri.) No.59/2019, it is crystal clear that interim protection for a period four weeks given the petitioner to seek regular/pre-arrest bail from the Competent Authority. Moreover, Comptentn Authority means trial court, Hon'ble High Court, Hon'ble Supreme Court also. Though Anticipatory Bail No.332/2019 came to be rejected by this court, the accused-Anand Teltumbde has remedy to approach before Hon'ble High Court and Hon'ble Supreme Court, for seeking regular/pre-arrest bail within the stipulated period of four weeks from the date of order of Hon'ble Apex Court in Special Leave Petition (Cri.) No.59/2019.

8. Therefore, in such circumstances, facts of the case in hand and supra case- Manish S. Pardasani are quite distinguishable, therefore, supra case- Manish S. Pardasani is not applicable to the facts and circumstances of the case in hand.

9. Taking into consideration all above facts and circumstances, I have come to the conclusion that arrest of accused-Anand Teltumbde made by Investigating officer is against impugned order by Honble Apex Court in Special Leave Petition (Cri.) No.59/2019. Therefore, impugned arrest of

accused-Anand Teltumbde, by Investigating officer, is illegal one and also amounts to contempt of order of Hon'ble Apex Court. Hence, I pass following order.

Order

1. Accused- Anand Teltumbde be released forthwith.
2. Inform to the Hon'ble Apex Court accordingly.

sdxr.

Date :02/02/2019

(K. D. Vadane)
Special Judge
District Judge 03-Pune