

ITEM NO.4

COURT NO.2

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

Miscellaneous Application No.2034/2022 in MA 1849/2021 in SLP(Cr1)
No. 5191/2021

SATENDER KUMAR ANTIL

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ANR.

Respondent(s)

(Mr. V.N. Raghupathy, Advocate for High Court of Karnataka; Mr. Tapesh Kumar Singh, Advocate for High Court of Jharkhand; Mr. P.I. Jose, Advocate for Gauhati High Court; Mr. Arjun Garg, Advocate for High Court of Madhya Pradesh; Mr. Amit Gupta, Advocate for High Court of Delhi; Mr. Sanjai Kumar Pathak, Advocate for High Court of Meghalaya; Mr. Sibho Sankar Mishra, Advocate for High Court of Orissa, Mr. Abhimanyu Tewari, Advocate for State of Arunachal Pradesh, Mr. Somanadri Gaud Katam, Advocate for High Court of Telengana; Mr. Aaditya A. Pande, Advocate for the State of Maharashtra; Mr. Ankur Prakash, Advocate for the State of Uttarakhand; M/s Arputham Aruna, Mr. Debojit Borkakati, Advocate for the State of Assam, Mr. S.N.Terdol, Advocate for the State of Ladakh, Mr. Avijit Mani Tripathi, Advocate for the State of Meghalaya, Mr. Manish Kumar, Advocate for the State of Bihar, Mr. Mahfooz A.Nazki, Advocate for the State of Andhra Pradesh, Mr. Maibam N.Singh, Advocate for the High Court of Manipur, Mr. Prashant S.Kenjale, Advocate for the High Court of Bombay, Mr. Ajay Pal, Advocate for the State of Punjab, Mr. Gagan Gupta, Advocate for High Court of Andhra Pradesh, Mr. Nishe Rajen Shonker, Advocate for the State of Kerala, Mr. Suwendu Suvasis Dash, Advocate for the State of Orissa, Mr. Pradeep Mishra, Advocate for the State of Uttar Pradesh, Mrs. Swati Ghildiyal, Advocate for the State of Gujarat, Mr. Pukhrambam Ramesh Kumar, Advocate for the Government of Manipur, Mr. Abhay Anil Anturkar, Advocate for the State of Goa, Mr. Anupam Raina, Advocate for the High Court of Jammu, Mr. Sunny Choudhary, Advocate for State of Madhya Pradesh, Mr. Varinder Kumar Sharma, Advocate for High Court of Himachal Pradesh, Ms. K.Enatoli Sem, Advocate for State of Nagaland, Mr. R.Ayyam Perumal, Advocate for State of Madras, Ms. Pallavi Langar, Advocate Govt. of Himachal Pradesh, Mr. Sameer Abhayankar, Advocate for State of Sikkim, Mr. Aravindh S. Advocate of U.T. Pudducherry, Ms. D.Bharthi Reddy, Advocate for High Court of Uttarakhand, Mr. Tapesh Kumar Singh, Advocate for High Court of Jharkhand, Mr. Gaurav Agarwal, Advocate for High Court of Patna, Mr. Apoorv Kurup, Advocate for High Court of Chhatisgarh, Mr. Nikhil Goel, Advocate for High Court of Gujarat, Mr. Naresh K.Sharma, Advocate for High Court of Tripura,, Mr. Sandeep Kumar Jha, Advocate for State of Rajasthan,, Mr. Shailesh Madiyal, Advocate for U.T. J and K, Ms. Surbhi Kapoor, Advocate for state of Goa, Dr. Monika Gusain, Advocate for State of

Haryana, Mr. Shuvodeep Roy, Advocate for State of Tripura, Ms. Manisha Ambwani, Advocate for High Court of Rajasthan, Mr. Kunal Chatterjee, Advocate for High Court of Calcutta, Mr. Rahul Gupta, Advocate for High Court of Punjab and Haryana, Mr. Apoorv Shukla, Advocate for High Court of Allahabad, Mr. Nirnimesh Dubey, Advocate for state of Mizoram, Mr. Joseph Aristotle S. Advocate for State of Tamil Nadu, Mr. Vishal Prasad, Advocate for State of Chhattisgarh, Ms. Astha Sharma, Advocate for State of West Bengal.

(I.A. Nos. 35729, 36585, 54736, 54707, 52666, 52662, 52655, 52669, 55689, 55890, 56135, 56839, 56842, 59555, 59556, 69359, 69362, 69366, 72281, 72282, 71867, 72515, 72521, 79289, 81454, 81462, 82753 and 86407 of 2023) Applications for Directions and Intervention and applications for exemption from personal appearance)

WITH

Diary No(s). 15241/2023 (II)
FOR INTERVENTION APPLICATION ON IA 74325/2023

MA 2035/2022 in SLP(Cr1) No. 5191/2021 (II)
IA No. 166259/2022 - CLARIFICATION/DIRECTION

Date : 02-05-2023 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

Mr. Sidharth Luthra, Sr. Adv. [AC]
Mr. Akbar Siddique, AOR [AC]

By Courts Motion, AOR

FOR PARTIES:-

Mr. Sourabh Kirpal, Sr. Adv.

Delhi HC

Mr. Amit Gupta, AOR
Mr. Harishankar Mahapatra, Adv.
Mr. Shiv Verma, Adv.
Mr. Ravinder Dudeja, Registrar General,
Delhi High Court

Mr. Ehboklang Kharumnuid, Registrar General
Meghalaya HC

Mr. Anil Kumar Mishra, Adv.
Mr. Arvind Kumar Mishra, Adv.
Mrs. Shashi Pathak, Adv.
Mr. Sanjai Kumar Pathak, Adv.

Jharkhand

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Ms. Sonal Singh, Adv.

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Mr. Rajneesh Chuni, Adv.
Mr. Pankaj Singhal, Adv.
Mr. Ayush Anand, Adv.
Mr. Shakti Singh, Adv.
Mr. Ayush Agrawal, Adv.
Mr. Animesh Mishra, Adv.
Mr. Parv. K. Garg, Adv.
Mr. Abhishek Singh, Adv.
Mr. Malik Javed Ansari, Adv.
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Punjab	Mr. Vinod Ghai, AG, Punjab Mr. Ajay Pal, Adv. Mr. Prashant Manchanda, AAG Mr. Mayank Dahiya, Adv.
Andhra Pradesh	Mr. Gagan Gupta, AOR
Kerala	Mr. Nishe Rajen Shonker, AOR Mrs. Anu K. Joy, Adv. Mr. Alim Anvar, Adv. Mr. Suwendu Suvasis Dash, Adv. Mr. Pradeep Mishra, Adv. Ms. Deepanwita Priyanka, Adv. Mrs. Swati Ghildiyal, AOR Ms. Devyani Bhatt, Adv. Mr. Pukhrambam Ramesh Kumar, Adv. Mr. Anupam Raina, Adv. Mr. Sunny Choudhary, Adv. Mr. Varinder Kumar Sharma, Adv.

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	Ms. D. Bharthi Reddy, Adv. Mr. Tapesh Kumar Singh, Adv.
	Mr. Aproop Kurup, Adv. Mr. Nikhil Goel, Adv. Mr. Naresh K. Sharma, Adv. Mr. Sandeep Kumar Jha, Adv. Mr. Shailesh Madiyal, Adv.
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Haryana	Mr. Lokesh Sinhal, Sr. AAG Mr. Nikunj Gupta, Adv. Dr. Monika Gusain, AOR
	Mr. Shuvodeep Roy, Adv. Ms. Manish Ambwani, Adv.
Calcutta HC	Mr. Kunal Chatterjee, AOR Ms. Maitrayee Banerjee, Adv. Mr. Rohit Bansal, Adv. Ms. Kshitij Singh, Adv.
P & H HC	Mr. Rahul Gupta, AOR
	Mr. Aproov Shukla, Adv. Mr. Nirnimesh Dubey, Adv. Mr. Joseph Aristotle S. Adv.
Chhattisgarh	Mr. Vishal Prasad, AOR Ms. Ritika Sethi, Adv.
West Bengal	Ms. Astha Sharma, AOR Ms. Manika Haryani, Adv. Mr. Dewrat Singh, Adv. Ms. Muskan Surana, Adv.

Allahabad HC

Mr. Yashvardhan, Adv.
Ms. Smita Kant, Adv.
Mr. Apoorv Shukla, AOR
Mr. Prabhleen A. Shukla, Adv.

Mr. Ravi Shanker Jha, Adv.
Ms. Pooja, Adv.
Mr. Munakala Venkata Ramana, Adv.
Mr. Penumala Vidyadhar, Adv.
Mr. Manish Kumar, Adv.

Ms. Aishwarya Bhati, ASG
Ms. Ashima Gupta, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Praveen Swarup, AOR

Mr. S. Nagamuthu, Sr. Adv.
Mr. Pandey Neeraj Rai, Adv.
Mr. Amit Goyal, Adv.
Mr. Kaushik Choudhury, AOR
Mr. Saksham Garg, Adv.

Mr. Somesh Chandra Jha, AOR

Mr. Ashish Batra, AOR

Ms. Rooh-e-hina Dua, AOR

Mr. Aditya Jain, AOR

Mr. Malak Bhatt, AOR
Mr. Gaurav Mehrotra, Adv.
Mr. Nadeem Murtaza, Adv.
Mr. Sheeran Mohiuddin Alavi, Adv.
Mr. Paawan Awasthi, Adv.
Mr. Prashast Puri, Adv.

Mr. Nikhil Jain, AOR

Ms. Anzu. K. Varkey, AOR

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

I.A. NOS.59555/2023-FOR INTERVENTION, 59556/2023- FOR DIRECTIONS, 69359/2023-INTERVENTION, 69362/2023 - FOR DIRECTION, 72515/2023 -INTERVENTION, 72521/2023-DIRECTIONS, 56135/2023-INTERVENTION, 51653/2023-INTERVENTION, 72281/2023-INTERVENTION 72282/2023-DIRECTIONS, 81454/2023-INTERVENTION, 81462/2023-DIRECTIONS, 82753/2023-

INTERVENTION, 74225/2023-INTERVENTION IN MA No.2034/2022

We are not inclined to entertain these applications in individual cases where it has been stated that the judgment in the present case is not being followed.

The remedy really lies in pointing out the judgment of this Court and inviting an order from the Court concerned and if still it is perceived that the judgment is being followed in breach, to agitate their rights in independent proceedings.

We also make it clear that henceforth we will not entertain any such application and the Registry should not list any such application as the purpose of keeping this matter alive is only to see that the implementation takes place in the larger perspective.

Mr. Saurabh Kirpal, learned senior counsel submits that if at least an observation is made that the judgment in *Satender Kumar Antil v. Central Bureau of Investigation & Anr.*- (2022) 10 SCC 51 should be taken into account by the trial Court, it may facilitate the parties.

The judgment of this Court including the one in *Satender Kumar Antil's* case (supra) is the law of the land. There is no question of anyone violating the principles laid down. Suffice for us to say that wherever this judgment is applicable, its principles must be followed.

We may note that apparently there are large number of cases arising especially in Uttar Pradesh and other States where the grievance made is that the judgment is not being followed. We consider appropriate that this order should be placed before the Chief Justice of the Allahabad High Court to ensure there is sufficient dissemination of information about this judgment.

All the applications stand dismissed with liberty to avail of the appropriate remedy.

COMPLIANCES BY HIGH COURTS

(i) The High Courts have now filed the compliance affidavits. Mr. Sidharth Luthra, submits that on perusal of the compliance report what emerges is that there is non-compliance of certain directions in certain districts. Suffice for us to say that it is for the High Courts to ensure that whenever in certain districts there is non-compliance, necessary steps are taken to ensure compliance.

We consider appropriate to direct that the High Courts after ensuring compliance may inform this Court accordingly that all directions have been so complied with.

(ii) The Registrar of the Allahabad High Court appears not to have even filed the affidavit setting out what steps have been taken in pursuance to the

directions passed by us on 21.03.2023 and it is now stated before us that it will be filed. We find this completely unacceptable. A date is fixed where considerable time is spent in this matter to ensure that the law is followed. The least we expect is that the affidavits will be filed well in time with advance copies to the Amicus so that he can assist the Court. This is more so of a State where it has been found that there are large number of examples of orders being passed by judicial officers, not in conformity with the judgment passed in the present matter.

We call upon the Allahabad High Court to file appropriate affidavit within four weeks with advance copy to the learned Amicus setting out the steps taken in this regard and as to whether it has been identified if some judicial officers have been still frequently passing orders not in conformity with the judgment and whether any of the officers have been sent to the judicial academies for further upgradation of their skills.

We may also note that as per some orders handed over to the learned Amicus, even after the last order, such orders as have been illustratively passed by the Lucknow and Ghaziabad Courts are not following the judgment of this Court. We would like to emphasize that if counsels want to bring to the notice of the

Court that such orders are being passed, the least which is expected is that the Amicus would have been handed over advance copies of such orders to facilitate him in assisting the Court.

One of the orders pointed out is of Sessions Judge, Lucknow in Bail Application [Under Section 438, Cr.P.C.] No.3704/2023 dated 26.04.2023 i.e. even after the order passed by us on 21.03.2023. The order rejects an anticipatory bail application in a matter of a matrimonial dispute where it was alleged that there was an assault on the complainant and various family members were sought to be roped in which included the husband, brother in law, mother in law and father in law. It was stated before the Court that the accused applicants were not arrested during the investigation and now charge sheet has been filed. The statement of the Public Prosecutor is also recorded that the the offences levelled are punishable with less than seven years of imprisonment. Thereafter the order notes the 2021 judgment of this Court. Despite this the anticipatory bail application is rejected qua all the applicants while recording *"since ample safeguards in given situation is already available to the accused-applicant, therefore, no ground exists for grant of anticipatory bail"*.

We have thus, specifically brought this order to the notice of learned counsel for the Allahabad High

Court as an illustration where despite all directions, much leaves to be desired.

Certainly, the learned Judge concerned meets the parameters for upgradation of his skills in a Judicial Academy and the needful be done by the High Court.

The fact that the directions in the case would apply to anticipatory bail cases was enunciated in the order dated 21.03.2023 and thus, there could not have been any confusion on this aspect.

Another illustrative order, we may note is in the case of a Second Anticipatory Bail Application No.1287/2023 in the Court of the Special Judge, Anti-Corruption CBI Court No.1, Ghaziabad dated 18.04.2023 which also the High Court needs to look into.

(iii) Mr. Sidharth Luthra, learned Amicus Curiae submits that no material has been given to him to assist the Court *qua* the aspect of directions to prosecutors contained in this behalf in the order dated 21.03.2023 by CBI or the States/UTs. We direct the needful to be done within the maximum period of four weeks with advance copy to Mr. Luthra failing which the concerned Secretaries of the State Government or the Head of the prosecuting agencies or the persons looking to this aspect of the prosecuting agencies should remain present in Court. The circulation in this behalf should be made through the

Director of Prosecution and training programmes be organized to keep on updating the Prosecutors in this behalf.

(iv) In pursuance to the details of UTs given to NALSA, by Mr. Gaurav Agrawal, learned Amicus Curiae for NALSA submits that steps are being taken and some more time may be given for the follow up action in this behalf by NALSA and the State Legal Services Authorities.

(v) A chart has been placed before us which shows that some of the States/UTs are yet to file the compliance report (para [73(d)]). We cannot appreciate the non-compliance by the States i.e. Karnataka, Telangana, Haryana Dadra and Nagar Haveli, Daman and Diu and Lakshdweep. Not only is it to be filed but copies have to be supplied so that the counsels assisting us are able to carry out their task.

(vi) Another issue flagged by Mr. Luthra is there are States which have filed affidavits but not supplied /filed standing orders i.e. Tamil Nadu, Assam, UT of Puducherry, Kerala and Odisha.

We direct the States to supply copy of standing orders within two weeks from today failing which their Home Secretaries will remain present in Court as nothing seems to work except the peremptory orders of this nature.

(vii) The third category is of States which have passed standing orders but not in conformity with the directions i.e. Manipur, Andaman & Nicobar Islands and West Bengal. Mr. Luthra states that he will inform these States within a week of the deficiencies and the corrected standing orders will be issued within two weeks thereafter, failing which Home Secretaries will remain present in Court. The following is the status of compliance:

CHART B: STATUS OF Hcs/STATES IN COMPLIANCE OF ORDER

DT.03.02.2023 & 21.03.2023 TILL 30.04.2023

Sr. No.	States/UTs yet to file the compliance report [73(d)]	States which filed affidavit but not supplied /filed standing orders	Standing orders not in terms of direction of this Court
1.	Karnataka	Tamil Nadu (Pg.545;Vol.I)	Manipur -filed draft of standing order (Pg.337; Vol.I)
2.	Telangana	Assam (Pg.161;Vol.II)	Andaman and Nicobar Islands- Standing order not comprehensive (Pg.140;Vol.II)
3.	Haryana	UT of Puducherry (Pg.1; Vol.I)	West Bengal - general direction- no standing order (Pg.112, Vol.II)
4.	Dadra and Nagar Haveli Daman and Diu	Kerala(Pg.53;Vol.II)	
5.	Lakshadweep	Orissa (Pg.244;Vol.II)	

(viii) When we had proceeded with the matter further, Ms. Aishwarya Bhati, learned ASG joined the proceedings and has taken note of what is pointed out by Mr. Luthra i.e. the affidavit of CBI is not in

compliance. She requests that the said affidavit may be ignored and she will file correct affidavit within four weeks.

IA NOS.35729/2023 IA NO.36585/2023

No reply has been filed.

Interim order dated 21.03.2023 is made absolute and the applications stand disposed of.

IA NOS.52666/2023-APPROPRIATE ORDERS/DIRECTIONS

IA NO.52662/2023-INTERVENTION

IA NO.52655/2023-INTERVENTION

IA NO.52669/2023-DIRECTIONS

No reply has been filed.

Interim order dated 21.03.2023 is made absolute and the applications stand disposed of.

IA NOS.54736/2023-DIRECTIONS, 54707/2023-INTERVENTION

No reply has been filed.

Interim order dated 21.03.2023 is made absolute and the applications stand disposed of.

IA NO.55890/2023-DIRECTIONS

No reply has been filed.

Interim order dated 21.03.2023 is made absolute and the applications stand disposed of.

IA NOS.56839/2023-INTERVENTION, 56842/2023- DIRECTION

No reply has been filed.

Interim order dated 21.03.2023 is made absolute and the applications stand disposed of.

IA NO.56846/2023- INTERVENTION
IA NO.56848/2023-DIRECTION

The applicant(s) has already been enlarged on bail in separate proceedings by this Court.

These applications do not survive for consideration and are disposed of.

xxx xxx

List on 08.08.2023.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR-cum-PS

(POONAM VAID)
COURT MASTER (NSH)