

ITEM NO.41

COURT NO.2

SECTION II-C

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No. 49236/2024

(Arising out of impugned final judgment and order dated 18-10-2024 in CRLMB No. 725/2024 in CRLA No. 1186/2017 passed by the High Court of Delhi at New Delhi)

MADHU KODA

Petitioner(s)

VERSUS

STATE THROUGH CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

Date : 25-10-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s)

Mr. Amit Kumar, Sr. Adv.
Mr. Aditya Shanker Pandey, Adv.
Ms. Yoothica Pallavi, AOR
Mr. Atul Kumar, Adv.
Mr. Luv Kumar, Adv.
Mr. Shaurya Sahay, Adv.
Mr. Aditya Kumar, Adv.
Ms. Rekha Bakshi, Adv.
Mr. Himanshu Sehrawat, Adv.

For Respondent(s)

Mr. R.S. Cheema, Sr. Adv.
Ms. Tarannum Cheema, Adv.
Mr. Akshay Nagarajan, Adv.
Mr. Akash Singh, Adv.
Mr. Sadeev Kang, Adv.

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

We are in agreement with the impugned judgment, which has also considered the judgment of this Court in *Afjal Ansari v. State of Uttar Pradesh*.¹ The petitioner's earlier application for stay of

1 (2024) 2 SCC 187.

conviction was rejected by a detailed order dated 22.05.2020.² The said order was not challenged.

A careful perusal of the judgment in *Afjal Ansari* (supra) and especially paragraph Nos. 16, 17, 20, 24 and 25 thereof and the ratio would reveal that several factors and facets have to be taken into consideration before the Court grants a stay of conviction, which is not a matter of routine, but a power to be exercised in an exceptional situation. In the said case, this Court had exercised that exceptional power in view of the facts which justified grant of relief as the appellant therein was a sitting Member of Parliament. That is not the factual position in the present case.

In our opinion, the decision of the High Court of Delhi in *Dilip Ray v. Central Bureau of Investigation*³ did not appreciate the ratio of *Afjal Ansari* (supra) in the right perspective, while holding that a convicted person should be granted a stay of conviction if he wants to contest an election.

Recording the aforesaid, the special leave petition is dismissed.

It will be open to the petitioner, Madhu Koda, to make a request for early hearing of the appeal before the High Court.

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

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

² *Madhu Koda v. State through CBI*, 2020 SCC OnLine Del 599.

³ 2024 SCC OnLine Del 2522.