

ITEM NO.8

COURT NO.4

SECTION X

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

Writ Petition(s)(Criminal) No(s).124/2022

BIKRAM SINGH MAJITHIA

Petitioner(s)

VERSUS

THE STATE OF PUNJAB & ORS.

Respondent(s)

(FOR ADMISSION and IA No.45944/2022-EX-PARTE AD-INTERIM RELIEF and IA No.45946/2022-EXEMPTION FROM FILING O.T. and IA No.45943/2022-PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 10-05-2022 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s) Mr. Kapil Sibal, Sr. Adv.
Mr. R.S. Cheema, Sr. Adv.
Mr. R.K. Handoo, Adv.
Mr. Yoginder Handoo, AOR
Mr. D.S. Sobti, Adv.
Ms. Aditi Pujari, Adv.
Mr. Ashwin Kataria, Adv.
Ms. Tarannum Cheema, Adv.
Mr. Arshdeep Singh Cheema, Adv.
Mr. Aditya Chaudhary, Adv.
Mr. Garvit Solanki, Adv.

For Respondent(s) Mr. V. Giri, Sr. Adv.
Mr. Anmol Rattan Sidhu, Adv. Gen
Mr. R.K. Rathore, Adv.
Mr. Pratham Sethi, Adv.
Mrs. Jaspreet Gogia, AOR

Mr. Sudhir Walia, Adv.
Ms. Niharika Ahluwalia, Adv.

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

1 The main relief which has been sought in these proceedings under Article 32 of the Constitution is for the quashing of FIR No 0002 dated 20 December 2021

under Sections 20, 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act 1985, registered at Police Station SAS Nagar. There is an alternative prayer for entrusting the investigation to a Special Investigation Team.

- 2 We have heard Mr Kapil Sibal with Mr R S Cheema, senior counsel appearing on behalf of the petitioner and Mr V Giri, senior counsel appearing on behalf of the respondent.
- 3 We decline to exercise the jurisdiction under Article 32 of the Constitution since the petitioner has an efficacious and alternative recourse to the jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure 1973 read with the provisions of Article 226 of the Constitution. The petitioner is at liberty to pursue remedies before the High Court.
- 4 Mr Kapil Sibal has submitted that in terms of the order dated 17 March 2015 passed by a two-Judge Bench of this Court in SLP (CrI) No 272 of 2015, similar directions may be issued in the present case so as to enable the petitioner to seek recourse to the remedy of bail before the Division Bench.
- 5 The relevant part of the order dated 17 March 2015 is extracted below:

“Learned counsel for the petitioners, at this stage, submit that since the matters are being referred to a Division Bench with a direction to hear and dispose of the writ petitions, they would withdraw the special leave petitions filed by them and approach the Division Bench for grant of bail, if so permitted by this Court. We see no reason to decline that permission. We accordingly dispose of the special leave petitions reserving liberty to the petitioners to approach the Division Bench before whom the writ petitions mentioned above and connected matters are listed for hearing. We make it clear that even the State of Punjab shall be free to approach the Division Bench for cancellation of the bail granted to Jagjit Singh Chahal and Parmjit Singh Chahal, if so advised.”

- 6 In view of the above order of this Court, we follow the same course of action and, accordingly, grant liberty to the petitioner to move the Division Bench of the High Court for the quashing of the FIR and for grant of bail. We clarify that this Court has had no occasion to make any expression of opinion on the merits of the case which is sought to be addressed before the High Court.
- 7 On the request of Mr V Giri, we clarify that it would be open to the State to raise appropriate contentions, including on the grounds of maintainability.
- 8 The petition is accordingly disposed of.
- 9 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER