

IN THE SUPREME COURT OF INDIA

(CRIMINAL APPELLATE JURISDICTION)

[S.C.R. ORDER XXII RULE 2(1)]

SPECIAL LEAVE PETITION

(Under Article 136 of the Constitution of India)

SPECIAL LEAVE PETITION (CRL.) NO. OF 2020

(Against the final judgment and order dated 20.05.2020 passed in Crl. Misc. Bail Application no. 12757 of 2020 and order dated 01.06.2020 passed in Crl. Misc. Modification Application no. 3 of 2020 in Crl.Misc.Bail Application no. 12757 of 2020 by the High Court of Judicature at Allahabad.

BETWEEN

POSITION OF PARTIES			
	IN THE TRIAL COURT	IN THE HIGH COURT	IN THIS COURT
1. Sachin Choudhary	Accused	Petitioner	Petitioner

VERSUS

2. State of Uttar Pradesh Prosecutor Respondent Respondent
Through Secretary,
Department of Home
affairs, Secretariat,
Lucknow, U.P.

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA AND
HIS COMPANION JUSTICES OF THE SUPREME
COURT OF INDIA.

THE HUMBLE PETITION OF THE
PETITIONER ABOVE NAMED.

MOST RESPECTFULLY SHOWETH:

1. That the present petition seeking Special Leave to Appeal has been filed against the final judgment & order dated 20.05.2020 passed in CrI. Misc. Bail Application no. 12757 of 2020 and order dated 01.06.2020 passed in CrI. Misc. Modification Application No. 3 of 2020 in CrI. Misc. Bail Application no. 12757 of 2020 passed by the High Court of Judicature at Allahabad whereby the High Court was pleased to impose restriction upon the petitioner that the petitioner shall not use social media.

2. **Question of law:**

The instant petition for Special Leave raises the following important and substantial questions of law for consideration by this Hon'ble Court are as under:-

- 2.1. Whether the impugned order passed by the Hon'ble High Court by restraining the petitioner to use social media without assigning any reason is patently erroneous and contrary to law?
- 2.2. Whether the exercising of jurisdiction by the Hon'ble High Court is ex-facie injudicious, unreasonable and inappropriate?
- 2.3. Whether the impugned order passed by Single Judge of the High Court restraining the petitioner to use social media could it be deprived the rights granted under Article 19 & 21 of the constitution of India?

- 2.4. Whether the impugned order passed by the Single Judge of the High Court could be given a complete ignorance of the rights granted under article 19 & 21 of the Constitution and could escape from being *per-incuriam*?
- 2.5. Whether discretion once exercised by curtailing the rights of the petitioner could be set at naught by restraining the petitioner to use social media as a measure of punishment with a pedantic approach adhering to misnomer of, as a camouflage of depriving the rights of speech and expression enshrined U/A 19 of the Constitution of India?
- 2.6. Whether High Court was justified in rejecting the prayer of the modification application by merely recording the impugned order is based upon relevant considerations and supported by cogent reasons without even discussing and/or analyzing the reasons in the light of settled position of law?

2.7. Whether the whole approach adopted by the High Court is not only illegal and bad in law but arises out of and is reflection of societal bias against a petitioner in such controversy?

3. **DECLARATION IN TERMS OF RULE 2 (2):**

The Petitioner herein state that no other petition seeking Special Leave to appeal against the impugned final order dated 20.05.2020 passed in Crl. Misc. Bail Application No. 12757/2020 and order dated 01.06.2020 passed in Crl. Misc. Modification Application No.3/2020 in Crl. Misc. Bail Application no. 12757/2020

4. **DECLARATION IN TERMS OF RULE 4:**

The Annexures P-1 to P-3 produced along with the Special Leave Petition are true copies of the documents which formed part of the records of the case in the court below against whose order the Special Lave Petition is sought in this petition.

5. GROUNDS:

- A. BECAUSE the impugned order passed by the Hon'ble High Court by imposing restriction upon the petitioner and rejecting the prayer of the modification without assigning any reason is patently erroneous and contrary to law. Hence it is liable to be set-aside.
- B. BECAUSE the Hon'ble High Court has failed to assign cogent reasons while passing the impugned order, however the contentions raised on behalf of Petitioner have not been noticed and decided and as such the impugned final Judgment and order passed by the Hon'ble High Court suffers from patent illegality, warranting interference by this Hon'ble Court in exercise of jurisdiction under Article 136 of the Constitution of India.
- C. BECAUSE the High Court has failed to appreciate that the imposing stringent restrictions upon

petitioner that not to use social media is complete nullity and depriving the rights enshrined under article 19 & 21 of the Constitution of India, in utter violation and the said restriction order is contrary to judicial norms and propriety is liable to be kept in absence to meet the ends of justice.

D. BECAUSE the High Court in erred in law that the discretion once exercised by curtailing the rights of the petitioner could be set at naught by restraining the petitioner to use social media as a measure of punishment with a pedantic approach adhering to misnomer of, as a camouflage of depriving the rights of speech and expression enshrined U/A 19 of the Constitution of India?

E. BECAUSE the Ld. Single Judge of the High Court failed to consider that the sharing views and express opinion on social media platform falls under the right of freedom of speech and expression. No person shall be deprived of his life and personal liberty granted by the Constitution

of India. The petitioner is social worker and active member of congress party and he also contested Loksabha election 2019. In this scenario, restricting the petitioner from social media is not only to initial deprivation of his personal liberty but also to continuation of such deprivation gives complete injustice and infringed his rights granted under Article 21 of the Constitution of India. On this ground alone the impugned order is liable to be set aside.

- F. BECAUSE the High Court has failed to appreciate that the social media is playing important role to connect the people by using social media i.e. WhatsApp, twitter, facebook etc. to connect the people or their relatives or friends. These are the source of the information is being used by the people to maintain their relations amongst friends, relatives or public. On this ground alone, imposing restriction upon the petitioner, that not

to use social media is not justifiable hence the impugned order is liable to be set-aside.

G. BECAUSE the High Court has failed to appreciate while passing the impugned order and imposing restriction and the Curtail the right of petitioner is not only a deprivation of his personal right and his liberty but is certainly affecting the life & carrier of the petitioner. Without considering these facts and rejected the prayer of the petitioner is illegal, and not sustainable in law and is against the principles of life and liberty, hence it is liable to be set-aside.

H. BECAUSE it is born out from the impugned order that the restriction imposed upon the petitioner that not to use social media, has been made by way of punishment, which is horrendous in criminal jurisprudence and untenable in law.

6. **GROUND FOR INTERIM RELIEF:**

NIL

7. **MAIN PRAYER:**

- (a) Grant special leave to appeal against the impugned judgment and final order dated 20.05.2020 passed in Crl. Misc. Bail Application no. 12757/2020 and order dated 01.06.2020 passed in Crl. Misc. Modification Application no. 3/2020 in Crl. Misc. Bail Application no. 12757/2020 passed by the High Court of Judicature at Allahabad;

And/Or

- (b) Pass such other further order as may be deemed fit and proper in the interest of justice.

8. **PRAYER FOR INTERIM RELIEF:**

NIL.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EEVER PRAY.

Drawn by:
Keshav Ranjan
Binay Kumar

FILED BY:

KESHAV RANJAN
Advocate for the Petitioner

Place: New Delhi
Drawn on: 07.06.2020
Filed on: 08.06.2020