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SUPREME COURT CASES

(2021) 3 SCC

(2021) 3 Supreme Court Cases 712

(Record of Proceedings)

2J

(BEFORE ROHINTON FALI NARIMAN AND B.R. GAVAI, JJ.)

MUNAWAR

.. Petitioner;

Versus

STATE OF MADHYA PRADESH AND OTHERS

.. Respondents.

Writ Petition (Crl.) No. 62 of 2021[†] with SLP (Crl.)

No. 1045 of 2021[‡], decided on February 5, 2021

Criminal Procedure Code, 1973 — S. 439 r/w S. 41 — Interim bail — Absence of compliance with procedure contained in S. 41 CrPC before arresting the petitioner — Same taken as factor for directing release of petitioner, a stand-up comedian, on ad interim bail by staying impugned judgment of High Court by which it declined bail to the petitioner involved in offences under Ss. 295-A, 298, 269 and 188/34 IPC, wherein complainant had alleged that jokes made by petitioner had outraged religious sentiments of the complainant and those similarly situated — Penal Code, 1860 — Ss. 295-A, 298, 269 and 188/34 — Constitution of India, Art. 19(1)(a)

[Ed.: The material facts have been gleaned from the impugned High Court judgment.]

Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449, *relied on*
Munnawar v. State of M.P., 2021 SCC OnLine MP 152, *stayed*

SK-D/67389/CR

Advocates who appeared in this case :

Vikram Chaudhri, Senior Advocate [Saurabh Kirpal, Harshit Sethi, Rishi Sehgal, Rahil Mahajan, Keshavam Chaudhri, Ms Ria Khanna and Ms Anzu K. Varkey (Advocate-on-Record), Advocates], for the Petitioner.

Chronological list of cases cited

- | | <i>on page(s)</i> |
|---|-------------------|
| 1. 2021 SCC OnLine MP 152, <i>Munnawar v. State of M.P.</i> | 712f-g |
| 2. (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449, <i>Arnesh Kumar v. State of Bihar</i> | 712f-g |

ORDER

1. The learned counsel has pointed out to us that quite apart from the fact that the allegations made in the FIR are vague that the procedure contained in Section 41 CrPC as adumbrated by our judgment in *Arnesh Kumar v. State of Bihar*¹, has not been followed before arresting the petitioner. This being the case, we issue notice in both the petitions, and stay the judgment² of the High Court. The petitioner is released on ad interim bail on conditions to the satisfaction of the trial court.

2. In the meantime, there shall be stay of the production warrants as well.

Court Masters

[†] Under Article 32 of the Constitution of India

[‡] Arising from the Judgment and Order in *Munnawar v. State of M.P.*, 2021 SCC OnLine MP 152 (Madhya Pradesh High Court, Misc. Criminal Case No. 2206 of 2021, dt. 28-1-2021)

1 (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449

2 *Munnawar v. State of M.P.*, 2021 SCC OnLine MP 152