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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

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CONT.CAS(C) 17/2017 & CM APPL. 737/2017

SURESH GUPTA

..... Petitioner

Through: Mr. Rajesh Yadav, Advocate with  
Mr. Manish Bansal, Advocate.

versus

ALOK KUMAR VERMA & ORS

..... Respondents

Through: Mr. Nikhilesh Kumar, Advocate for  
Ms. Jyoti Taneja, Advocate.

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Date of Decision: 09<sup>th</sup> January, 2017

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**J U D G M E N T**

**MANMOHAN, J: (Oral)**

1. Present contempt petition has been filed alleging wilful disobedience of Guidelines/Directions with respect to arrest of persons laid down by the Apex Court in *Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273* wherein it has been held that in all cases where the offence alleged to have been committed is punishable with imprisonment for a term less than seven years, with or without fine, no automatic arrest shall be made by the police officers unless a notice of appearance in terms of Section 41A of the Cr.P.C. is served upon the accused within two weeks from the date of institution of case and further the reasons for arrest are specifically recorded.

2. Mr. Rajesh Yadav, learned counsel for petitioner states that despite the aforesaid judgment, respondent No.5/IO of case FIR No.502/2016 Police Station Sarai Rohilla, New Delhi under Section 308/34 IPC applied for and got issued non-bailable warrants against the petitioner as well as his family members within seven days of registration of the aforesaid FIR without issuing a notice of appearance under Section 41A Cr.P.C.

3. A perusal of the paper book reveals that though the plea of violation of Section 41A Cr.P.C. was specifically raised before the High Court at the time of anticipatory bail, yet the said plea was dismissed. Even interim protection initially granted by the Supreme Court was subsequently dismissed.

4. Consequently, as both the High Court and Supreme Court have satisfied themselves about the need for petitioner's arrest, it cannot be said that it is a case of arrest in wilful disobedience of the Supreme Court judgment in *Arnesh Kumar* (supra).

5. It is pertinent to mention that till date, the petitioner has not surrendered, despite the High Court and Supreme Court rejecting his anticipatory bail applications.

6. Accordingly, present contempt petition and application are dismissed.

7. However, it is clarified that petitioner shall be at liberty to raise the plea of violation of Sections 41 and 41A Cr.P.C. before the trial Court.

Order dasti under the signature of Court Master.

**MANMOHAN, J**

**JANUARY 09, 2017**

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