

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1435 of 2018**

Utpal Sengupta, S/o. Uttam Sengupta, Aged About 31 Years, R/o. 233, Phase II Getanjali City, Behind S.E.C.L. Bilaspur, P.S. Sarkanda, Bilaspur, Chhattisgarh

---- **Petitioner**

Versus

State Of Chhattisgarh, Through S.H.O. Tarbahar, District Bilaspur Chhattisgarh

---- **Respondent**

For Petitioner : Mr. Hemant Gupta, Advocate

For Respondent-State : Mr. Ashish Shukla, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

24.07.2018

Heard

1. Learned counsel for the petitioner submits that the petitioner was protected in the earlier CRMP No.197/2017 by an interim order as under :

“In the meanwhile, no coercive steps shall be taken against the petitioner, however, subject to confirmation of this order, after appearance of the respondent No.2.”

2. It is contended that thereafter the interim order was not continued, however, it was not vacated, as such, there will be deemed continuation of the interim order. Consequently, when the application was filed for anticipatory bail, this Court in MCRCA No.133 of 2018 observed as under :

“2. Whether the interim order is continuing or not, it would be proper for this Court to comment upon. Considering that there was already an interim order passed in favour of the applicants/petitioners in CRMP No.917/2017, this Court is not inclined to entertain this application at this stage. This bail application is accordingly dismissed.”

3. It is contended that thereafter the petitioner was taken into custody on 13.07.2018 in some other case bearing Crime No.39/2018 wherein he was bailed out, however, in respect of this case, remand was taken first time on 13.07.2018 and thereafter on 16.07.2018 and both remand are not proper as he was protected by the interim order granted in CRMP No.917/2017.
4. Perusal of the order sheet of CRMP No.917/2017 shows that on 02.08.2017 shows that the Court observed that no coercive steps shall be taken against the petitioner subject to confirmation of this order after appearance of the respondent No.2. The order sheet shows the respondent No.2 entered appearance on 23.01.2018. Subsequently, on the date fixed for 27.02.2018 the interim order was continued. Thereafter, when the case was again heard on 03.04.2018, 08.05.2018 and lastly on 03.07.2018 the interim order was not continued with an express order and other observations were made. Therefore, admittedly, it appears that the interim protection which was granted earlier was not continued. In view of this, I do not find any merit in this petition to entertain it and accordingly is dismissed at the threshold. Unless and until, the interim protection is expressly continued there cannot be a deeming fiction and protection about interpretation of such order.

Sd/-
Goutam Bhaduri
Judge