

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4741 OF 2018

Stan Swamy.	]	... Petitioner
Versus		
State of Maharashtra & Ors.	]	... Respondents

Mr. Mihir Desai, Senior Advocate a/w Mr. Vijay Hiremath i/b Devyani H. Kulkarni for Petitioner.
Smt. A. S. Pai, APP for State.

CORAM :- B. P. DHARMADHIKARI &
SARANG V. KOTWAL, JJ.
DATE :- DECEMBER 14, 2018

P. C. :-

1. Heard Mr. Mihir Desai, learned Senior Advocate for Petitioner and Smt. A. S. Pai, learned APP for State.

2. Prayer in the petition is, to quash and set aside the proceedings against the Petitioner in connection with the FIR dated 08/01/2018 in C.R.No.4 of 2018. This Court had, on 26/10/2018, after the learned APP sought adjournment to obtain instructions, taken note of the statement made by the Government that no coercive action shall be taken against the Petitioner. That statement continues to operate even today.

3. This Court has today, in Writ Petition No.4425 of 2018 filed by Gautam P. Navlakha, by a separate order, adjourned the matter to 14/01/2019. Effort of the Petitioner in the present matter was to have this matter on the same date. Learned APP, however, opposed and she also submitted that the interim protection granted in the present matter is unwarranted.

4. We have accordingly heard the respective Counsel. We find that the Petitioner relied upon his past performance to establish his creditworthiness and status. His old age and the stringent provisions of Unlawful Activities Prevention Act, 2012 (for short, 'UAPA') are also pointed out to show that in present situation, to permit him to be arraigned as accused at any juncture and allow the Respondents to arrest him, would be unwarranted and arbitrary.

5. Learned Senior Advocate Mr. Desai has fairly invited our attention to reply Affidavit where the Respondents state that the Petitioner presently is only a suspect and to explain the position, they have, in the Affidavit of Investigating Officer Dr. Shivaji Pawar, in paragraph (xvi), given some material.

6. Learned Senior Advocate Mr. Desai submits that the Persecuted Prisoners Solidarity Committee is formed by the elite in the society with the aim of assisting prisoners unnecessarily languishing in various jails in several states and it has no political colour. He has taken us through the pleadings in paragraph 8 of Writ Petition and also in paragraph 3 onwards of rejoinder.

7. Smt. Pai, learned APP for State, submits that on the basis of material available, the Respondents have not found it proper to make him an accused and presently shown him only a suspect. The investigation is going on and if any other adverse material comes on record, the provisions of law must be allowed to take their own course and that course cannot be arrested by any order of this Court. She relies upon the Affidavit of Dr. Pawar mentioned supra.

8. We have considered the rival contentions. It is apparent that presently, there are no proceedings against the Petitioner. As such, prayer (a) which is the main prayer in the present Writ Petition, cannot be granted.

9. The stringent provisions of UAPA are made with particular purpose and if the investigating agency comes across any material which show commission of offence dealt with by these provisions, it is apparent that the course prescribed therein needs to be allowed. We cannot find any fault at this stage with the stand of the Respondents. Similarly, the statement that they are presently treating the Petitioner only a suspect, does not appear to be made with any oblique motive.

10. We, in this situation, refuse to intervene any extraordinary jurisdiction.

11. The Writ Petition is, therefore, rejected.

12. Needless to mention that the statement made by the learned APP upon instructions and taken note of on 26/10/2018, therefore, ceases to operate.

(SARANG V. KOTWAL, J.)

(B. P. DHARMADHIKARI, J.)