

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2846 OF 2021

Rana Kapoor Petitioner

Vs.

The Central Bureau of Investigation Respondent

Shri. Amit Desai, Senior Counsel a/w Pranav Badheka, Archit Jayakar a/w Siya Chaudhary, Juhi Valia, Dhvani Parekh, Prasad Sawant, Pooja Yadav i/by M/s Jayakar & Partners.

Shri. H.S. Venegaonkar for CBI,
Shri. N.B. Patil, APP for State of Maharashtra

Coram : NITIN W. SAMBRE, J.

Date : 12th AUGUST, 2021

P.C.:

1. Not on board. Mentioned. Taken on board.
2. Heard Shri. Desai, learned Senior Counsel appearing for the Petitioner and Shri. Venegaonkar, learned counsel appearing for the C.B.I..
3. Relying on the judgment of the Hon'ble Apex Court in the matter of **Arnesh Kumar Vs. State of Bihar and Another**, reported in

(2014) 8 Supreme Court Cases, page **273**, the submissions are, before arresting the Petitioner, it is necessary to follow the rituals as are laid down under Section 41-A of Code of Criminal Procedure. According to Shri. Desai, in the matter of **Susan Abraham Vs. State of Maharashtra and Others**, delivered in **Criminal Writ Petition No. 1951 of 2007** on 20th January, 2010, the Division Bench of this Court has categorically held that the protection to an accused provided under Section 41-A of Code of Criminal Procedure is extended even to a proceedings for production of prisoner under Section 267 of the Code of Criminal Procedure. According to Shri. Desai, the Respondent-Officer in a proceedings taken out under Section 267 of the Code of Criminal Procedure has expressly stated about his intention to arrest the applicant, who is already in judicial custody in some other crime. As such according to him, since the offence is punishable for not more than seven years, the Respondent be directed to comply with the provisions of Section 41-A of the Code of Criminal Procedure by quashing the order impugned.

4. While responding to the aforesaid submissions, Shri. Venegaonkar, learned counsel for the Respondent submits that it is premature to held that the Respondent will not comply with the requirement under Section 41-A of Code of Criminal Procedure. According to him, paragraph 18 of the order impugned is sufficient enough to observe that this Respondent shall follow appropriate procedure as prescribed under the law.

5. In the aforesaid background, particularly in the light of the submissions made by Shri. Venegaonkar, on instructions from the Officer, who are present in the Court that appropriate procedure as contemplated in the judgment of the Apex Court in the matter of **Arnesh Kumar Vs. State of Bihar and Another** (cited supra) will be adhered to, in my opinion, at this stage no interference is called for in the impugned order, As such, the Writ Petition stands disposed of.

(NITIN W. SAMBRE, J.)