

**IN THE HON'BLE SUPREME COURT OF INDIA**  
**CRIMINAL APPELLATE JURISDICTION**  
**SPECIAL LEAVE PETITION (CRIMINAL) 7618 OF 2019**

**IN THE MATTER OF:**

P. CHIDAMBARAM ..... PETITIONER

Versus

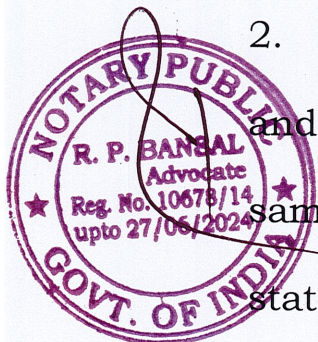
CENTRAL BUREAU  
OF INVESTIGATION ..... RESPONDENT

**SHORT COUNTER AFFIDAVIT  
ON BEHALF OF THE RESPONDENT CBI**

I, Rajpal Meena, aged 41 Years S/o Sh. Laxman Ram Meena working as Superintendent of Police, EO-II Branch, CBI, New Delhi do hereby solemnly affirm and state as under:

1. That I am Superintendent of Police of the Respondent CBI and in my official capacity, am well aware of the facts and circumstances of the case. I have perused the contents of the captioned SLP and understood the same. Furthermore, I am duly authorised by the Respondent to file the present affidavit.

2. At the outset, I deny each and every assertion, averment and contention raised by the Petitioner in the subject SLP. The same shall be treated to be denied by me in seriatim. I further state and submit that I am filing the present short affidavit opposing the issuance of notice by this Hon'ble Court. I am therefore, not filing a detailed para-wise reply to the aforesaid



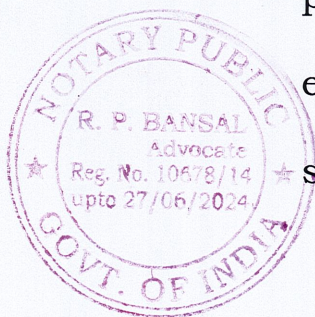


SLP, I however reserve my right to file a detailed reply on behalf of the Respondent CBI, if necessary, at a later stage of the proceedings.

3. I further respectfully state and submit that the present SLP is not maintainable on the following grounds-

(i) That what is under challenge in the captioned SLP is an order passed by the Id. Special Judge remanding the petitioner – accused to police custody in his judicial discretion and by a speaking order. There is a remedy available against the said order before the higher forum and it is a settled legal position that this Hon'ble Court would not invoke its constitutional discretionary jurisdiction under Article 136 of the Constitution of India, directly against an order of the Special judge remanding an accused to few days of police custody.

(ii) It is submitted that normally such orders are not interfered with even by the High Courts, more particularly when the Id. Special Court has, after an elaborate and lengthy hearing, passed a detailed speaking order in exercise of his judicial discretion.



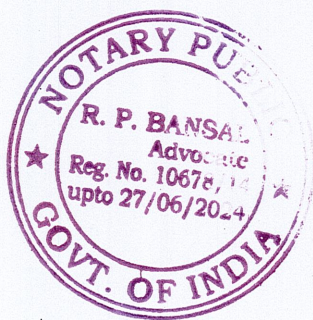


(iii) I respectfully submit that on perusal of the SLP, it appears that the petitioner has chosen to directly invoke Article 136 as the SLP [crl. ] No. 7525 of 2019 filed by him against rejection of his anticipatory bail application was pending before this Hon'ble Court. It is respectfully submitted that this Hon'ble Court vide its order dated has been pleased to dismiss the said SLP(Crl) No. 7525 of 2019 which was listed along with the SLP(Crl) No. 7523 of 2019 vide its order dated 26.08.2019. However, for ready reference of this Hon'ble court the said order is quoted hereinbelow:-

"SLP(Crl.)No.7525 of 2019:

*In this petition, the petitioner has challenged the order of the High Court dated 20.08.2019 in and by which the High Court has declined to grant anticipatory bail in CBI No. RC220-2017-E-0011 registered under Section 120-B IPC & Section 420 IPC and Sections 8, 13(2) read with Section 13(1)(d) of the Prevention of Corruption act, 1988.*

*It is submitted by the learned senior counsel for the petitioner that after dismissal of the petition for anticipatory bail by the High Court, the petitioner has approached the Supreme Court challenging the said order. The grievance of the petitioner is that an opportunity of hearing has not been given to the petitioner in spite of direction dated 21st August, 2019 for early hearing. It is stated that subsequently, the petitioner has been arrested on 21st August, 2019. Since the petitioner has been arrested, in view of the judgment of the Constitution Bench reported in 1980 (2) SCC 565 Shri Gurbaksh Singh Sibbia & Others vs. State of Punjab, we find that this special leave petition has become infructuous. The special leave petition is,*





*accordingly, dismissed as having become infructuous.*

*The petitioner is at liberty to work out his remedy in accordance with law.*

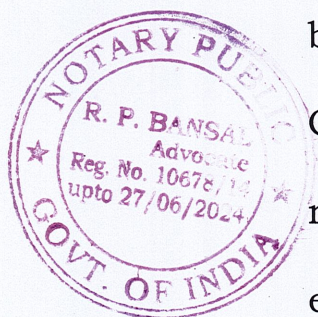
*The contentions raised by both the parties are left open to be considered at the appropriate stage.*

*Pending application(s), if any, shall also stand disposed of."*

Thus, the fundamental basis of approaching this Hon'ble Court directly does not exist.

- (iv) I state and submit that entertaining of a petition under Article 136 of the Constitution directly against an order of remand passed by the competent court in exercise of discretionary jurisdiction under Section 167 of the Code would set a very bad precedent.

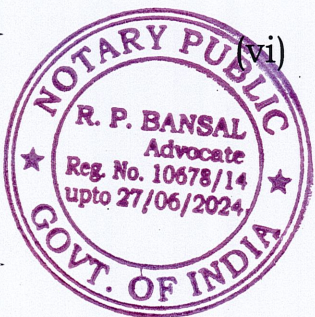
It is submitted that as held by the Constitution bench of this Hon'ble Court in *Bihar Legal Support Society v. Chief Justice of India*, reported in (1986) 4 SCC 767, normally the High Court is the final arbiter in bail / anticipatory bail matters. Generally all SLPs challenging the bail / anticipatory bail are, therefore, not allowed to be listed immediately on mentioning before the Hon'ble Chief Justice of India unless extraordinary and special reasons are shown. If this Hon'ble Court were to entertain the SLP directly against the order of the special





judge remanding the accused to police custody, all the litigants whose prayer for listing of SLP against anticipatory bail are refused and are thereafter arrested, will be entitled to file similar petitions challenging the orders of sessions Judge / Special Judge granting police remand directly before this Hon'ble court as the personal liberty of other citizens [which is interfered with in accordance with law] would not be less important than that of the Petitioner.

- (v) It is submitted that the petitioner has not pointed out any extraordinary circumstances which would have justified any deviation from the consistent practice being followed. There are no extraordinary or grave circumstances which justifies the petitioner to by-pass the statutory remedies which are resorted to by all citizens challenging the order of remand and there may be no justification for allowing the petitioner to do so by entertaining the present SLP.

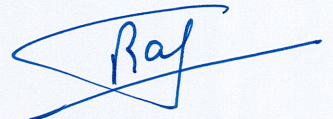


- (vi) In the present case, there already are two orders subsequently to the first order under challenge in the captioned SLP wherein the ld. Special Judge has exercised his sound judicial discretion in the interest of investigation.



4. In view of the aforesaid facts and circumstances it is respectfully submitted that the present SLP is bereft of merit and hence warrants no intervention by this Hon'ble court. The present SLP, is therefore, liable to be dismissed in the interest of justice.

5. I state and submit that the aforesaid affidavit is made bonafide and is necessitated in the present circumstances.



**DEPONENT**

राजपाल मीना/RAJPAL MEENA  
पुलिस अधीक्षक/Superintendent of Police  
केंद्रीय अन्वेषण ब्यूरो/Central Bureau of Investigation  
आर्थिक अपराध-2/Economic Offence-II  
सी.जी.ओ. कॉम्प्लेक्स, लोधी रोड, नई दिल्ली-110003  
CGO Complex, Lodhi Road, New Delhi-110003

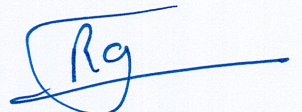
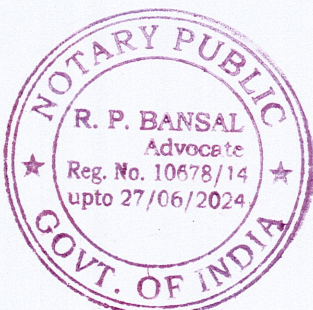
**VERIFICATION**

Verified at New Delhi on this 2<sup>nd</sup> day of September 2019 that the contents of the above affidavit are true and correct to my knowledge and as per official records maintained in the routine course of business. No part of the above affidavit is false and nothing material has been concealed there from. The legal submissions made therein are based on legal advice received by the deponent.

IDENTIFIED BY

ATTESTED

Notary Public, Delhi  
(As Presented)



**DEPONENT**

राजपाल मीना/RAJPAL MEENA  
पुलिस अधीक्षक/Superintendent of Police  
केंद्रीय अन्वेषण ब्यूरो/Central Bureau of Investigation  
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07/09/19