

PETITIONER:
STATE OF ASSAM AND ANR.

Vs.

RESPONDENT:
R.K. KRISHNA KUMAR AND ORS., SAEED KIDWAI AND ORS.

DATE OF JUDGMENT: 24/10/1997

BENCH:
M.K. MUKHERJEE, K.T. THOMAS

ACT:

HEADNOTE:

JUDGMENT:

WITH
CRIMINAL APPEAL NO. 1005 OF 1997
(Arising out of SLP (CrI.) No. 3163 of 1997)
WITH
CRIMINAL APPEAL NO. 1006 OF 1997
(Arising out of SLP (CrI.) No. 3262 of 1997)
J U D G M E N T

Thomas, J.

Leave granted.

State of Assam and its Director General of Police have filed these appeals challenging the orders of the Bombay High Court as per which some officers of M/s Tata Tea Ltd. (who are arrayed as respondents herein) were granted anticipatory bail facility. It appears that those respondents are suspected to have given aid to militant groups which have been banned under the provisions of the Unlawful Activities (Prevention) Act, 1967. Assam Police are wanting to interrogate all the suspected persons, including the respondents, in connection with investigation of the cases registered for the above crimes by the appellants. Respondents moved the Bombay High Court for anticipatory bail and a learned Single Judge, without even affording an opportunity to the appellants for a hearing directed the appellants to release the respondents, if arrested, on bail of Rs. 10,000/- each with one or two sureties of the like amount.

Various arguments have been raised by Shri K.T.S. Tulsi, learned counsel appearing for the appellants, in challenge of the impugned orders. Learned counsel appearing for the respondents, while arguing in reply to the appellants' contention did not dispute that Government of Assam or the Director General of Police of the State of Assam were not heard, in spite of they being made parties in each of the applications for anticipatory bail.

According to Shri Tulsi, only the Courts of Session in Assam and High Court of Guwahati have jurisdiction to entertain the applications for anticipatory bail in respect of the activities alleged against the respondents vis-a-vis the two banned organizations because all such crimes were committed within the territorial limits of the State of

Assam.

We do not think it necessary to decide whether Bombay High Court has jurisdiction to entertain the applications filed by the respondents. All the same, the question of granting anticipatory bail to any person who is allegedly connected with the offences in question must for all practical purposes be considered by the High Court of Guwahati within whose territorial jurisdiction such activities should have been perpetrated. In view of the conceded position that appellants were not heard by the High Court we set aside the impugned orders on that ground alone. The applicants are to be disposed of after hearing the appellants also. For that purpose we order that the applications for anticipatory bail filed by the respondents would stand transferred to the High Court of Guwahati where those applications would be heard by a Division Bench of that High Court and appropriate orders be passed thereon. We request of Chief Justice of High Court of Guwahati to allot these cases to a Division bench to hear the applications, preferably on 4.11.1997.

In order to avoid conflicting decisions and opinions, we think it necessary that all future petitions for anticipatory bail made by any one in common or related matters referring to such activities committed within the territorial limits of Guwahati High Court shall be heard only by the same Division Bench. We further direct that no such application for anticipatory bail shall be entertained by any court other than the Division Bench of the High Court of Guwahati indicated above.

Status-quo as on today will be maintained by the appellants vis-a-vis the respondents herein till 7.11.1997 which is necessary to enable the Division Bench of the High Court of Guwahati to pass appropriate orders on the applications filed by the respondents.

We direct the Registry to take immediate steps to ensure that the applications filed by the respondents for anticipatory bail in Bombay High Court are despatched to Guwahati High Court so as to reach there on or before 3.11.1997.

The appeals are thus disposed of.