
(1999) 08 MP CK 0028

In the Madhya Pradesh High Court

Case No : Miscellaneous Cr. Case No. 5513/99

Sachindra Mahawar and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 23-08-1999

Acts Referred:

Constitution of India, 1950 — Article 21, 214, 225

Criminal Procedure Code, 1973 (CrPC) — Section 177, 178, 179, 180, 181

Penal Code, 1860 (IPC) — Section 406, 409, 498A

Citation : (2000) CriLJ 637 : (2001) ILR (MP) 1418 : (2000) 1 MPHT 127

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : Surendra Singh, for the Appellant; Ahaluwalia, Government Advocate, for the Respondent

Judgement

Dipak Misra, J.

"Liberty is to the collective body, what health is to every individual body. Without health no pleasure can be tasted by man; without Liberty, no happiness can be enjoyed by society."

1. Thus spoke Bolingbroke.

Liberty is the precious possession of the human soul. Not for nothing Patrick Henry thundered:

"Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery ? Forbid it, Almighty God ! I know not what course others may take, but as for me, give me liberty, or give me death !"

The thought of losing one's liberty immediately brings in a feeling of fear, an anguish of terrible trauma, an uncontrollable agony, a penetrating nightmarish perplexity and above all a sense of vacuum withering the very essence of existence. It is because liberty is deep as eternity and deprivation of it, infernal. May be for this protectors of liberty ask, "How acquisition of entire wealth of the

world would be of any consequence if one's soul is lost ?" The essence of soul is liberty. Life without liberty is eyes without vision, ears without hearing power and mind without coherent thinking faculty. Keeping the aforesaid well cherished ideas, the fathers of our Constitution engrafted in its Preamble : "Liberty of thought, expression, belief, faith and worship." After a lot of debate in the Constituent Assembly, Article 21 of the Constitution came into existence laying down in categorical terms that no person shall be deprived of his life and personal liberty except according to the procedure established by law. The seminal question that falls for consideration in the present application preferred for grant of privilege u/s 438 of the Code of Criminal Procedure (hereinafter referred to as "Code") is whether this Court can confer the said benefit in respect of an offence committed or registered outside its territorial jurisdiction. Ordinarily this question would not have required more deliberation as there is already an authority by a Division Bench of this Court rendered in the case of *Kailashpati Kedia v. State of Maharashtra and Ors.* 1996 MPLJ 847, but Mr. Ahluwalia, learned Government Advocate, heavily relied on the decision rendered in the case of *State of Assam v. R.K. Krishna Kumar* reported in 1997 JT (8) SC 650 to highlight that this Court is bereft of jurisdiction, and therefore, matter should be referred to a Larger Bench for reconsideration of the judgment passed in the case of *Kailashpati Kedia* (supra). He also impressed upon this Court, quite apart from the decision rendered in the aforesaid decision, the matter requires to be reconsidered; in view of the enormous practical difficulty in entertaining such an application by this Court and further the Division Bench while deciding the matter has not considered the issue of extra-territoriality; the concept of "The High Court" as per the Constitution of India, Central General Clauses Act and the provisions of the Code. It is also put forth by him that the Court had also not taken note of sacrosanct principle enshrined under the maxim "*Audi alteram partem*" as this Court would be passing an order without hearing the Public Prosecutor of the concerned State. Because of the aforesaid stand taken by Mr. Ahluwalia, Mr. Surendra Singh, Senior counsel for the applicants, addressed this Court at length. Mr. Ahluwalia, learned Government Advocate also canvassed his contentions with utmost sincerity. Hence, I embark upon the discussion. I would categorise the contentions broadly into two compartments, namely, the effect of recent decision of the Apex Court, and the other proponent's.

2. Before I advert to deal with the contentions raised at the Bar, I would like to remind myself the caution given by Benjamin Cardozo :

"The Judge, even when he is free still not wholly free. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system,"

Now to the first compartment. In the case of *R.K. Krishna Kumar* (supra) the allegations against the accused persons were that they had given aid to militant

groups which have been banned under the provisions of the Unlawful Activities (Prevention) Act. While the Armed Police were searching the accused persons to interrogate them in connection with the offence in question they approached the Bombay High Court for grant of anticipatory bail and the Court passed an order in their favour. The aforesaid order was assailed by the State of Assam before the Apex Court. It was proponed before the Apex Court that Bombay High Court did not have jurisdiction and the same vested only with the competent Court of Session and the High Court of Guwahati. The Apex Court did not consider it necessary to decide whether the High Court of Bombay had jurisdiction to pass any order. Their Lordships laid down as follows:

"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."

Thus, their Lordships of the Apex Court did not decide the controversy. Mr. Ahaluwalia, learned Government Advocate, however, would like this Court to hold that the point in issue has been put to rest by their Lordships. On a reading of the judgment it is clear that their Lordships have not decided the jurisdictional issue. Hence, I find myself unable to accept the contention of Mr. Ahaluwalia that the decision of the Division Bench of this Court in the case of Kailashpati Kedia (*supra*) is no more a good law, I may state here that I am bound by the aforesaid authority.

3. Submission of the learned Government Advocate is that the view taken in Kailashpati Kedia (*supra*) requires reconsideration. To substantiate the aforesaid submission he pointed out that this Court had not taken into consideration the definition of High Court as per Section 2(e) under the Code, Articles 214 and 225 of the Constitution and under the Central General Clauses Act. He has also contended that this Court has not taken into consideration the import and effect of Section 177 of the Code. He has also highlighted that the Court has not addressed itself with regard to unworkability if the jurisdiction is exercised u/s 438 of the Code in relation to an offence committed by the accused in other State. It is also putforth by him that under the scheme of the Code the Court take cognizance of an offence and not of the offender, and therefore, place of domicile cannot be regarded as a factor to confer jurisdiction on Court. Lastly, it is argued by him that Section 438 must be read conjointly with Sections 436 437 and 439 of the Code and should not be scrutinised independently as if it belongs to a different compartment altogether.

Resisting the aforesaid submissions of the learned Government Advocate, Mr. Surendra Singh, learned Senior counsel, has contended that the apprehension of arrest is an essential facet as per the language employed u/s 438 of the Code. It is his submission that once it is held that the Court has jurisdiction the definition of Court under the Code melts into insignificance and the concept of extra-territoriality gets ostracised. Submission of learned Senior counsel is that the

concept of bail stands on a different footing than enquiry and trial and arrest and bail being inherently interlinked this Court has jurisdiction to pass a protective order in favour of an accused depending upon the facts and circumstances.

4. In view of the aforesaid contentions, it is apposite to refer to Section 438 of the Code which reads as under :

"438. Direction for grant of bail to person apprehending arrest--(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this Section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under Sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think, fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; (iii) a condition that person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under Sub-section (3) of Section 437, as if the bail were granted under that Section.

(3) If such person is thereafter arrested without warrant by an officer in charge of police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail, and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under Sub-section (1)."

On scrutiny of the anatomy of the aforesaid provision it is plain as noon-day that the key words are "When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence."

These words when understood in proper perspective would mean a person must have a genuine apprehension regarding his arrest and it has to be based on accusation pertaining to non-bailable offence. In this context, I may profitably refer to the Full Bench decision of this Court rendered in the case of *Nirbhay Singh v. State of M.P.* 1996 (1) Cri 238 (HC) wherein it has been laid down as follows :

"Section 438 speaks of a person having reason to believe that he may be arrested on an "accusation". There may be an accusation even before a case is

registered by police. After the registration of the case, filing of the charge-sheet or filing of the complaint or taking cognizance or issuance of warrant the accusation will not cease to be an accusation. At the later stage, there may stronger accusation or more evidence. Nevertheless, the accusation survives or continues. Section 438 speaks of apprehension and belief that he may be "arrested". There is no limitation in the language employed by the legislature indicating that the arrest contemplated is an arrest by the police of their own accord or that arrest by the police on a warrant issued by the Court will not attract Section 438. The language used is clear and unambiguous, namely, apprehension of "arrest on an accusation". Considering the legislative purpose underlying the provision and the clarity of the language used in the Section we do not find any justification to import anything extraneous into the interpretation so as to restrict the scope or validity of the provision. It is not as if circumstances justifying any application u/s 438 would disappear once a Magistrate takes cognizance of the offence or even after he passes an order committing the case to Sessions Court."

The purpose of referring to the aforesaid decision is that an apprehension of arrest on accusation is the sine qua non for taking recourse to the said provision. As held by the Full Bench of this Court an accusation may exist before a case is registered by the police. Thus the apprehension must be based on real belief and the arrest must be imminent. Studied in this light it becomes crystal clear that place of apprehension of arrest has importance. In this context I may usefully refer to the decision rendered by the High Court of Calcutta in the case of B.R. Sinha v. State 1982 CrLJ 61, wherein it has been ruled thus:

"It is true that a Court takes cognizance of an offence but in an application for bail or anticipatory bail, the Court is concerned with the petitioner. In our view, if the petitioner resides within the jurisdiction of a particular Court his application is certainly entertainable by that Court."

At this juncture, I may refer to Section 2(g) of the Code which defines "Inquiry". It reads as under :

"2 (g). "Inquiry" means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court".

Section 2(h) of the Code defines "Investigation" as followed :

"2 (h). "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than Magistrate) who is authorised by a Magistrate in this behalf."

Section 4 of the Code deals with "trial of offences under the Indian Penal Code and other laws". It reads as follows :

"4. Trial of offences under the Indian Penal Code and other laws--(1) All offences under the Indian Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other laws shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences."

From a fair reading of the aforesaid provisions it is graphically clear that the investigation, inquiry and trial are different terms and distinct connotation has been attributed to them under the Code. Investigation is intrinsically connected with arrest. An investigating officer has the authority to arrest a person without warrant if the offence is classified as cognizable. Certain powers have been conferred on the investigating officer to arrest the accused. In this regard I may refer to Section 48 of the Code which reads as under :

"48. Pursuit of offenders into other jurisdictions-- A police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India."

Thus, the aforesaid provisions recognise extra-territoriality in the matter of arrest by the investigating officer. A distinction has to be drawn in relation to matters pertaining to inquiry and trial and the matters pertaining to investigation. Chapter II of the Code deals with the constitution of criminal Courts and Offices and further deals with the territorial jurisdiction. Chapter XIII of the Code deals with the jurisdiction of the criminal Courts in respect of inquiries and trials. Section 177 of the Code provides that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. Section 178 prescribes place of inquiry or trial. Section 179 provides offence triable where act is done or consequence ensues. Section 180 stipulates place of trial where act is an offence by reason of relation to other offence. Section 181 postulates place of trial in case of certain offences. I have referred to the aforesaid provisions to indicate that they clearly relate to inquiries and trials and the Courts are bound to function within the said parameters and cannot usurp jurisdiction. But as far as the investigation is concerned, extra-territoriality has been recognised under the Code and investigation in its ambit and sweep engulfs arrest of the accused. The sap of the matter is if arrest is apprehended because of certain accusation within the territorial jurisdiction of a High Court whether privilege can be conferred u/s 438 of the Code or not. Submission of Mr. Ahaluwalia is that venue of inquiry and trial being fixed under the basic criminal jurisprudence and cognizance is taken of the offence and not of that an individual offender, the jurisdiction has to be vested with the Court where the offence has been committed. Thus, the emphasis of Mr. Ahaluwalia is on the situs of the commission of offence or locale of the commission of the offence. To appreciate the aforesaid stand, I may profitably refer to the observations of the Apex Court in the case of *Balachand Jain v. State of M.P.* AIR 1977 SC 366, wherein it has been held as under :

"..... Now Section 438 contemplates an application to be made by a person who apprehends that he may be arrested on an accusation of having committed a

non-bailable offence. It is an application on an apprehension of arrest that invites the exercise of the powers u/s 438. And on such an application, the direction that may be given u/s 438 is that in the event of his arrest, the applicant shall be released on bail."

In this regard I may also refer to the decision rendered in the case of Shri Gurbaksh Singh Sibbia and Others Vs. State of Punjab, , wherein the Constitution Bench ruled thus :

"7. The facility which Section 438 affords is generally referred to as "anticipatory bail", an expression which was used by the Law Commission in its 41st report. Neither the Section nor its marginal note so describes it but, the expression "anticipatory bail" is a convenient mode of conveying that it is possible to apply for bail in anticipation of arrest. Any order of bail can, of course, be effective only from the time of arrest because, to grant bail, as stated in Whartson's Law Lexicon, is to "set at liberty a person arrested or imprisoned, on security being taken for his appearance". Thus, bail is basically release from restraint, more particularly, release from the custody of the police. The act of arrest directly affects freedom of movement of the person arrested by the police, and speaking generally, an order of bail gives back to the accused that freedom on condition that he will appear to take his trial. Personal recognizance, suretyship bonds and such other modalities are the means which an assurance is secured from the accused that though he has been released on bail, he will present himself at the trial of offence or offences of which he is charged and for which he was arrested. The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the later is granted in anticipation of arrest and is therefore, effective at the very moment of arrest. Police custody is an inevitable concomitant of arrest for non-bailable offences. An order of anticipatory bail constitutes, so to say, an insurance against police custody following upon arrest for offence or offences in respect of which the order is issued. In other words, unlike a post-arrest order of bail, it is a pre-arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. Section 46(1) of the Code of Criminal Procedure which deals with how arrests are to be made, provides that in making the arrest, the police officer or other person making the arrest "shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action." A direction u/s 438 is intended to confer conditional immunity from this "touch" or confinement."

The purpose of referring the aforesaid decisions is to highlight that Section 438 is really concerned with the arrest and is a safeguard against arrest. It is to be borne in mind that pre-trial arrest stands on a different footing than the trial of the case. Safeguard against arrest being the heart of Section 438 of the Code, I think, it would engulf apprehension of arrest in its ambit and sweep.

5. It is next contended by Mr. Ahaluwalia that Public Prosecutor would not be in a position to assist the Court in adjudicating the application for grant of anticipatory bail, and if a decision is taken, it would be violative of principles of natural justice. In this context, I may refer to the dictum laid down in the case of Gurbaksh Singh (supra) wherein their Lordships ruled thus :

"38. There was some discussion before us on certain minor modalities regarding the passing of bail orders u/s 438(1). Can an order of bail be passed under that Section without notice to the public prosecutor ? It can be. But notice should issue to the public prosecutor or the Government Advocate forthwith and the question of bail should be re-examined in the light of the respective contentions of the parties. The ad interim order too must conform to the requirements of the Section and suitable conditions should be imposed on the applicant even at that stage."

From the aforesaid, it is perceptible that in a given situation the Court may pass an ad-interim order before hearing the Public Prosecutor. The Division Bench of this Court in the case of Kailashpati Kedia (supra) held that Court has jurisdiction to grant anticipatory bail in cases arising beyond the jurisdiction of the Court but such bail should be granted only for a limited jurisdiction and the person so released be directed to approach the Court where offence has been committed or registered within a specified period.

6. In a recent decision rendered in the case of Neela J. Shah v. State of Gujrat and Anr. 1998 Cr.L.J. 2228 a learned Single Judge of the High Court of Gujrat after referring to the decision rendered in the case of R.K. Krishna Kumar (supra) has held as under :

"8. Consideration of an application u/s 438 requires an urgency but it cannot be given just for asking. The Court is required to look into the accusation and the evidence in support thereof without loss of time. But if the place where the investigation is actually pending is in a different State at a far distance, it would not be possible for the Court to pass the requisite urgent order after effective application of its mind to the accusation and the evidence in support thereof. In such circumstances there are chances of misuse of provisions of Section 438. There are instances where parties have abused the provisions u/s 438 by obtaining anticipatory bail from the Courts within whose territorial jurisdiction the offence has not been committed. However, it cannot be denied that if an urgent order is not immediately passed by the Court whose territorial jurisdiction within which he apprehends arrest, a citizen may be denied of statutory remedy u/s 438. In view of this, the only balanced view which cannot be taken is that the Court of Session or the High Court within whose jurisdiction one ordinarily resides may apply for anticipatory bail and the same may be entertained by the Court only with a view to provide an immediate relief so as to enable him to approach the Court of Session or the High Court within whose territorial jurisdiction the offence alleged to have been committed. Thus, an application u/s 438 Cr.P.C. should be finally decided only by the Court within whose territorial

jurisdiction the alleged offence has been committed. The Court entertaining application for anticipatory bail at the first instance which does not have the territorial jurisdiction can give protection only for a brief period on adequate condition with a view to enable the person apprehending arrest to approach the Court within whose territorial jurisdiction the offence alleged to have been committed."

In view of the foregoing discussion, I am of the considered view that an order can be passed by the Court where arrest is apprehended by the accused to pass an ad interim order with a direction to move the competent Court where the offence has been registered or committed. This appears to be a balanced view and would be within the parameters of law. I may humbly state here that the Division Bench of this Court has taken this view, and I am in respectful agreement with the same, and hence, the prayer by the Government Advocate for a reference to a larger Bench does not merit consideration. However, I may add that the application for grant of bail would depend upon the nature of allegations made against the accused. It would be incumbent on the accused to satisfy the Court that he permanently resides within the territory of the State and there is imminent danger of he being arrested. There should be no cloud about his domicile and cognizance shall not be taken of temporary abode. The apprehension must be real and it must be indicative of the fact that it cannot brook any delay and situation warrants emergent attention. The application of the accused should allude to the relevant facts so that the Court would be in a position to appreciate the facts in proper perspective and be in a position to exercise discretion. That apart, jurisdiction should not be exercised in a routine manner or for the asking.

7. Having held so, I deem it necessary to refer to certain observations of the Apex Court in the cases of Balchand Jain (supra) and Joginder Kumar Vs. State of U.P. and others, as the same were heavily relied upon by Mr. Surendra Singh learned senior counsel for the applicants. In paragraph 15 of Balachand (supra) their Lordships observed as under :

"We may of course point out that in emergent cases the Courts may make an interim order of anticipatory bail before issuing notice to the other side. From what has been said it is clear that the intention of the Legislature in enshrining the salutary provision in Section 438 of the Code which applies only to non-bailable offences was to see that the liberty of the subject is not put in jeopardy on frivolous grounds at the instance of unscrupulous or irresponsible persons or officers who may some times be in charge of prosecution."

In the case of Joginder Kumar (supra) it has been held as under :--

"..... No arrest can be made because it is lawful for the Police Officer to do so. The existence of power is one thing. The justification for the exercise of it is quite another. The Police Officer must be able to justify the arrest apart from his power to do so. Arrest and detention in police lock-up of a person can cause incalculable

harm to the reputation and self esteem of a person. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person it would be prudent for a Police Officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the persons complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter the recommendation of the Police Commission merely reflect the constitutional concomitants of the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the Officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to person to attend the Station House and not to leave Station without permission would do."

8. From the aforesaid enunciation of law, there remains no iota of doubt that the individual liberty has to be respected and simultaneously the investigation has to take its course. As has been stated earlier a balanced view has to be adopted. A reconciliation has to be done between social restraint and individual liberty. True it is, in the matter of jurisdiction, there cannot be chimerical approach but if the law confers such powers that should not be overlooked or brushed aside on the ground of pragmatic inconvenience and practical difficulty. A compromise between the two has to be established. It should not be forgotten that once honour is lost it is unredeemable and unreclaimable like a word, once spoken cannot be recalled. To put it in the language of Horace: "Etsemel emissum volat irrevocabile verbum". An accused cannot be left to be "stars" tennis-balls, struck and bandied". It is to be borne in mind that no human institution can be perfect and therefore, efforts ought to be made so that, no police officer can say that he is the law; no prosecutor can assume the role of persecutor; no informant can celebrate over malicious prosecution; and a balance is struck between the law and human nature; society and individual; and effective prosecution and personal liberty.

9. Now to the factual matrix. It is averred in the petition that a crime has been registered against the five applicants under Sections 498A and 406 of the Indian Penal Code in Mahila Thana at Ajmer in the State of Rajasthan. The said case has been instituted at the instance of the wife of the applicant No. 1 who is from Ajmer. It is putforth that the marriage between the applicant No. 1 and the informant was solemnised on 23-01-1998. She resided at her matrimonial home for 50 days and thereafter, went to her parental home. The petitioner No. 1 filed a petition for divorce on 13-5-99 in the Family Court at Raipur and notices were issued to the wife of the applicant No. 1 on 14-5-99. The petition for divorce and the copy of the ordersheet have been brought on record. According to the petitioners, the informant demanded Rs. 10,000/- per month from the petitioner No. 1 towards maintenance and threatened if the said amount was not given she

would lodge a false complaint roping in the entire family. It is also averred that after receipt of the notice of the divorce petition the wife lodged a report at the concerned police station alleging that she was treated with cruelty at Raipur and her ornaments had been kept by the applicant No. 1 and his family. It is also highlighted that the applicants Nos. 2 to 5 had never gone to Ajmer and, therefore, they are treating her with cruelty, if any, can only arise at Raipur. It is also averred that the investigating agency has already come from Ajmer and are taking steps to arrest the applicants.

10. Mr. Surendra Singh, learned senior counsel, in support of the application has contended that out of malice, the whole family has been roped in. It is also put forth by him that the elder brother of the husband and his wife have been implicated for no apparent reason. It is also argued that old parents of the applicant No. 1 have been arrayed as accused in the crime in question. It is urged by him that applicant No. 1 is a Chemical Engineer and the applicant No. 5 is a writer of eminence. It is also canvassed that Mahila Thana, Ajmer does not have jurisdiction. It is his further submission that the applicants have to engage a lawyer in Rajasthan to move an application for grant of anticipatory bail and if before that they are taken into custody at Raipur or any other place they would be deprived of their right to move an application u/s 438 of the Code.

Mr. Ahaluwalia, learned Government Advocate as has been indicated above, opposed the prayer for grant of bail on the ground of maintainability. However, he did not dispute with regard to domicile of the applicants.

11. Appreciating the averments made in the petition and considering the submissions of the learned counsel for the applicants, I am inclined to direct that in the event of the arrest of the applicants in connection with the crime registered at Mahila Thana Ajmer for the offences punishable under Sections 406 and 409 of the Indian Penal Code, each of them shall be released on bail executing a personal recognizance bond of Rs. 20,000/- each with one surety each in the like amount to the satisfaction of the investigating officer. They may approach the appropriate Court in the State of Rajasthan within four weeks from today. The order passed today shall remain alive for four weeks and automatically stand cancelled after the expiry of the aforesaid period. It is further directed, that in the meantime, they shall make themselves available for interrogation by the investigating officer as and when necessary; would not directly or indirectly cause any impediment in the process of investigation; and would not abscond or leave India without prior permission of the Court.

12. The application is accordingly disposed of.

13. Before parting I must put on record my unreserved appreciation for the candid and able assistance rendered by the learned counsel Mr. Surendra Singh and Mr. Ahaluwalia. The assistance is in consonance with the high tradition of the Bar.