

ITEM NO.15 Court 15 (Video Conferencing)

SECTION II-A

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 8431/2021

(Arising out of impugned final judgment and order dated 17-09-2021 in ABA No. 2236/2021 passed by the High Court of Judicature at Bombay at Aurangabad)

**MOHAMMAD ALI RAHEMAN @ MOHAMMED ALI ABDUL RAHEMAN**  
**SHAIKHPetitioner(s)**

**VERSUS**

**THE STATE OF MAHARASHTRA**

**Respondent(s)**

(FOR ADMISSION and I.R. and IA No.141811/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.141810/2021-EXEMPTION FROM FILING O.T. and IA No.141815/2021-EXEMPTION FROM FILING AFFIDAVIT )

Date : 13-11-2021 This petition was called on for hearing today.

**CORAM :**

**HON'BLE MR. JUSTICE SANJIV KHANNA**  
**HON'BLE MS. JUSTICE BELA M. TRIVEDI**

**For Petitioner(s)** Mr. Rohit Rathi - AOR  
 Mr. Hare Krishna Mishra, Adv.

**For Respondent(s)**

**UPON hearing the counsel the Court made the following**  
**O R D E R**

Learned counsel for the petitioner has drawn our attention to Section 328 of the Indian Penal Code and submits that the said provision has been wrongly invoked. It is submitted that other provisions invoked by the prosecution are bailable. Our attention is drawn to the order dated 07.05.2021 passed in SLP (Cr1.) No. 3602/2021 in which it is stated a similar issue arose for consideration. It is also stated that notice has been issued by a Bench presided over by Hon'ble the Chief Justice in SLP (Cr1.) No.

4101 of 2020 on invocation of Section 328 of the Indian Penal Code.

Issue notice, returnable within five weeks.

Tag with the Special Leave Petition (Cr1.) No. 3602/2021.

In the meanwhile, the petitioner would not be arrested, subject to the petitioner cooperating with the investigation and with the Investigating Agency. In case there is any lapse on the part of the petitioner, it will be open to the Investigating Agency to move an application for variation of this order.

(BABITA PANDEY)  
COURT MASTER (SH)

(RAM SUBHAG SINGH)  
BRANCH OFFICER