

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. _____ OF 2020

[Lodg. No. _____ of 2020]

Dist: Mumbai

**IN THE MATTER OF ARTICLE 226
OF THE CONSTITUTION OF INDIA
1950.**

AND

**IN THE MATTER OF THE BOMBAY
HIGH COURT PUBLIC INTEREST
LITIGATION RULES, 2010.**

1. **Mr. Nilesh Navalakha**]

Age: 44 Years, Occ: Businessman]

2. **Shri. Mahibub D Shaikh**]

3. **Shri. SubhashChanderChaba**]

.... Petitioners

Versus

1. **Union Of India,**]
Through the Secretary/]
Joint Secretary (P&A)/]
Joint Secretary(Broadcasting),]
Ministry Of Information]
and Broadcasting,]
Room No 552, A Wing,]
ShastriBhawan, New Delhi-110001.]
Email: jspna-moib@gov.in]
2. **Press Council Of India**]
The Secretary]
1st, 2nd& 3rd Floor,]
SoochnaBhawan,]
8, C.G.O. Complex, Lodhi Road,]
New Delhi- 110 003]
Email: secy-pci@nic.in]
3. **News Broadcasters Association**]
The SecretaryGeneral]
Mantec House,]
C-56/5, 2nd Floor,]
Sector 62,Noida - 201 301]
Email: nba@nbanewdelhi.com]
4. **Central Bureau Of Investigation**]
Through Its Officer]
Plot No. 5-B, 6th Floor, CGO Complex,]
Lodhi Road, New Delhi - 110003.]
Email: hozdel@cbi.gov.in]
5. **State Of Maharashtra**]
The. Chief Secretary]

CS Office, Main Building, Mantralaya,]
 6th Floor, Madame Cama Road,]
 Mumbai 400032.]
 Email:cs@maharashtra.gov.in]

6. The India Today Group]

The Authorised Person]
 "Mediaplex"]
 FC-8, Sector – 16A,]
 Film City, Noida – 201301]
 Email:info@aahtak.com]

7. Times Now]

The Authorised Person]
 1st Floor, Trade House,]
 Kamala Mill Compound,]
 SenapatiBapatMarg,]
 Lower Parel, Mumbai – 400013.]
 Email:info@timesnow.tv]

8. Republic Tv]

The Authorised Person]
 Wadia International Centre,]
 Kamala Mills Compound,]
 NBW Building, Bombay Dying,]
 PandurangBudhkarMarg,]
 Century Mills, Lower Parel,]
 Mumbai, Maharashtra 400025.]
 Email: contact@republicworld.com]

9. NDTV Ltd]

The Authorised Person]
 207, Okhla Industrial Estate,]
 Phase 3, New Delhi 110020.]
 Email: feedback@ndtv.com]

10. News 18]

The Authorised Person]
 Global Broadcast News,]
 Express Trade Tower,]
 Plot No. 15-16, Sector-16A,]

Noida – 201301.]
 Email: editor@news18.com]

11. **Zee News**]

The Authorised Person]
 14th Floor, 'A' Wing,]
 Marathon Futurex,]
 N M Joshi Marg,]
 Lower Parel, Mumbai – 400013.]
 Email: inews@zeemedia.esselgroup.com] ... Respondents

TO,

THE HONOURABLE THE CHIEF JUSTICE
AND THE COMPANION HONOURABLE
JUSTICES OF HIGH COURT OF
JUDICATURE OF BOMBAY,
APPELLATE SIDE, AT BOMBAY.

THE HUMBLE WRIT PETITION OF THE
PETITIONERS, ABOVENAMED, UNDER
ARTICLE 226 OF THE CONSTITUTION OF
INDIA

MOST RESPECTFULLY SHEWETH: -

The Petitioners most humbly and respectfully submits as under:

I. PARTICULARS OF THE CAUSE AGAINST WHICH THE PETITION IS MADE

1. The Petitioners are constrained to approach this Hon^{ble} Court under Article 226 of the Constitution of India 1950 in *interalia* seeking directions to the respondents to:
 - a) direction to the Respondents to issue necessary instructions to the Media channels both print and electronic for temporary postponement of news reporting by way of telecasting, publishing, republishing

reports/articles and/or carrying out discussions/debates of any kind by the Media both Electronic and Print tantamount to “Media Trial” or “Parallel Investigation”, which will directly or indirectly hamper the investigation in respect of FIR No.

registered by the Central Bureau of Investigation on 06.08.2020 relating to the unfortunate demise of Actor Sushant Singh Rajput;

- b) Direct the Respondents to ensure that the tenets of the programme code are followed in both letter and spirit, as laid down Cable Television Networks (Regulation) Act, 1995 and 1994 Rules; and
 - c) Direct the Respondents to keep strict vigil on the media channels in sensitive cases to adhere with the Cable Television Networks (Regulation) Act, 1995 and 1994 Rules and take necessary stringent actions against such media channels who conduct “Media Trials” in violation of the programme code and journalistic ethics.
- 2.** It is respectfully submitted that the actions of the Media in sensationalizing Sushant Singh Rajput’s death is not only adversely impacting the ongoing investigation by the CBI, but is also in the teeth of the “doctrine of postponement” propounded by a Constitution Bench of the Hon’ble Supreme Court in ***Sahara India Real Estate Corpn. Ltd. v. SEBI, (2012) 10 SCC 603.***
- 3.** The instant petition in no manner seeks to impinge or curtail the freedom of the press/media, but for the sake of administration of justice only seeks a direction to the Respondents to toe the “*Lakshman Rekha*” and ensure that no media trial is undertaken which has the impact of prejudicing the independent investigation being undertaken by the CBI. It is submitted that the medial trial in the death of the Actor Sushant Singh Rajput’s case is posing *real and substantial risk* of prejudice to the proper administration of justice,

muchless, the criminal justice system, or to the fairness of trial and such neutralizing device (balancing act) would not be an unreasonable restriction and on the contrary would fall within the proper constitutional framework.

4. Petitioners are law abiding citizens of country and believe in an independent and fearless media as the fourth pillar of our democracy, at the same time are concerned with falling standards of journalism and propaganda news. Petitioners are merely seeking to uphold rule of law. Petitioners expects that journalists to be fair to all sides, neutral and to provide diverse points of view. However what can be seen is that "pure" news has more or less disappeared and that the personal ideology of the editor or proprietor often shapes news this process has also led to media losing its credibility among people.

MAINTAINABILITY OF PETITION UNDER ARTICLE 226

5. The present Petition filed by the Petitioners is maintainable in view of the series of the orders passed by the Hon^{ble} Supreme Court in public interest litigation filed by Advocate Surat Singh in seeking restraint in reporting in the wake of "wild allegations" levelled by Noida police, which first investigated the Aarushi Talwar murder case wherein the Hon^{ble} Apex Court in the public interest litigation passed orders restraining the media from publishing material which has potential to interfere with the process of investigation of all cases. True copy and typed copy of the relevant extract of the order dated 09.10.2008 passed in Surat Singh vs. Union of India Ministry of Law and Justice W.P.(C) No. 000316/2008 is annexed hereto and marked as "**Exhibit A**".
6. It is submitted that the aforesaid Public Interest Litigation is pending before the Hon^{ble} Supreme Court, hence it is submitted that the Public Interest Litigation in cases of such nature is clearly maintainable. The Petitioners are beseeching this Hon^{ble} Court's indulgence to uphold the majesty of law

and ensure that there is no subversion of the course of justice.

II. PARTICULARS OF THE PETITIONERS

7. Petitioners No.1 Mr Nilesh Navalakha is a reputed filmmaker/producer and has produced nine films containing social issues and has received National Awards for three of his films, namely, „Shala“, „Fandry“ and „Anumati“. Petitioners is also a social activist, and is actively involved in various Social Causes, and has been vocal about several social issues pertaining to causes of the downtrodden sections of the society. The Petitioners being a noble, upstanding and upright citizen of this country has been relentlessly working towards upholding the Rule of Law.
8. The Petitioners No. 2 is editor of a regional newspaper “Bandhuprem” in Solapur and has been a social worker for last 35 years. The Petitioners has been publishing the newspaper in complete adherence to the ethic and code of journalism and is close connected and concerned with freedom of press. The Petitioners has been vocal about the issues pertaining to human rights, equality and upholding the rule of law and is bound by the Constitution of India. The Petitioners has been working tirelessly for upliftment of poor and down trodden, he has also been actively involved in various social and charitable activities after the outbreak of COVID-19. The Petitioners has closely assessing the role of media print and electronic both since several years and has both been critical and contended of the role of media. The Petitioners is filing the present Petition in larger public interest and for the welfare/benefit of the citizens of the State.
9. The Petitioners No. 3 is a retired Er-in-Chief/Civil from Punjab State Electricity Board and served as Advisor

Engineering on contract basis for five years in Chandigarh Zone of CBI. He has been a crusader against corruption ever since in student days and has been airing his views on corruption and other social evils plaguing the nation in the editor's mail columns of the Tribune. He had been associated with erstwhile India Rejuvenation Initiative which had eminent people like former-IPS Julio Ribeiro, Vijay Shankar Pandey, etc. as its members. He had been active and was officer bearer of PSEB Engineers „Association for over two decades.

III. DECLARATION AND UNDERSTANDING OF THE PETITIONERS

10. That the present petition is being filed by way of Public Interest Litigation and the Petitioners does not have any personal interest in the matter. Petitioners are law abiding citizens of country and believe in an independent and fearless media as the fourth pillar of our democracy, at the same time are concerned with falling standards of journalism and propaganda news. Petitioners are merely seeking to uphold rule of law.
11. That the entire cost of litigation is borne and paid by the Petitioners. That the Counsels/Advocates representing the Petitioners are doing so *probono* and in the interest of the Society. No fee or charges are being billed by the Counsels/Advocates to the Petitioners and ancillary expenses are borne by the Petitioners.
12. The source of income of the Petitioners is as and by way of pensions, business, personal savings etc respectively:

13. That to the best of the Petitioners' knowledge and research, the issues raised in this Petition have not been dealt with or decided by this Hon'ble Court and neither a similar or identical Petition was filed by him earlier.
14. That the Petitioner understands that in the course of hearing this Petition, the Hon'ble Court may require any security to be furnished towards costs or any other charges and the Petitioners shall comply with such requirements.

FACTS IN BRIEF CONSTITUTING THE CAUSE:

- i. On 14.06.2020 Late Actor Sushant Singh Rajput was found dead in mysterious circumstances at his residence in Mumbai.
- ii. The Mumbai police registered ADR (Accidental Death Report) and started investigation and has recorded statements of about 60 witnesses/persons.
- iii. Petitioners No. 1 made a complaint against one of the prominent news channels to Respondent No. 1 seeking action for insensitive and disparaging comments against Indian Army and also coverage of death of actor Sushant Singh Rajput in defiance with programme code. It is submitted that Respondent No. 1 has taken no action against the aforesaid media channel so said. True copy of the complaint dated 20.06.2020 and legal notice issued to the media channel dated 20.06.2020 is annexed hereto and marked as "**Exhibit B**" and "**Exhibit C**" respectively

- iv. On 25.07.2020 Rajput's father Krishna Kishore Singh filed an FIR in Patna accusing actress Rhea Chakraborty friend of late actor and other on 16 charges including abetment of suicide, criminal breach of trust, forgery and charges under provision of the Indian Mental Health Act.
- v. On 28.07.2020, the accused named in the FIR filed by Bihar police filed a plea in the apex court seeking a transfer of the investigation from Patna to Mumbai.
- vi. On 6 August, the Central Bureau of Investigation (CBI), the Indian national government's top investigating agency, re-registered the Patna Police FIR accusing Rhea Chakraborty and others of wrongdoing, thus taking over the case and registered FIR No. RC242020S0001. True copy of the FIR filed by the CBI being FIR No. RC242020S0001 dated 06.08.2020 is annexed hereto and marked as "**Exhibit D**".
- vii. The Enforcement Directorate, which investigates financial crimes, also registered a money laundering case over transactions worth of Rs 15 Crore based on the complaint registered by Rajput's father.
- viii. The Hon^{ble} Supreme Court vide judgment dated 19.08.2020 in Transfer Petition No. 225 of 2020 allowed the CBI to take control of the investigation and ordered the CBI to look into any future cases registered in relation to Rajput's death. Investigation is ongoing in the death of the late actor Sushant Singh Rajput. True copy of the judgment dated 19.08.2020 passed by the Hon^{ble} Supreme Court is annexed hereto and marked as "**Exhibit E**".
- ix. From 14.06.2020 to date several prominent media channels have been literally conducting "Media trials" "Parallel proceedings investigation by conducting and broadcasting, holding debates, rendering opinion, exposing the material witnesses, examining and cross-examining the witnesses and reporting and chasing the officials of CBI who are

investigating the case. It is submitted all such telecasts and broadcasts are available in public domain. And if directed by this Hon'ble Court the Petitioners undertakes to file the same, for the perusal and assistance of this Hon'ble Court.

- x. The prominent news channels in its attempt to sensationalize the issue has gone as far as displaying the CDR records which is a vital piece of evidence thereby resulting in the several threat calls and messages sent to the alleged accused.
- xi. As per the media reports available in public domain on 7th August 2020, the day when the accused in the FIR was supposedly summoned by the ED, the news channel uploaded a video in which actors contact details were clearly shown.
- xii. That few of such prominent channels also to scandalize and sensationalize the death of the late actor has been making irresponsible reporting to implicate one of the prominent ministers of the State of Maharashtra and have been making derogatory, false and distasteful remarks against several ministers only to create distrust in minds of the public at large by their narratives.
- xiii. It can also be seen that several media channels are chasing the CBI team who are investigating the case and are exposing the witnesses to public at large.
- xiv. Several news channels have proceeded to already convict the accused in named in the FIR and also making insinuations against high ranking officers of the Mumbai Police and the Ministers of the State without even completion of the investigation or probe in the matter. In various debates and discussions held by the several prominent news-channels/electronic media in particular it can be seen that the news anchors/reporters are examining and cross-examining all the proposed witnesses and

exposing the probable evidence to the public which can only be examined by the investigating agency or by the competent courts during the course of trial.

- xv. That “media trials” during the pre-trial, investigation stage as reportage and exposure of key witnesses and evidence clearly undermines the concept free and fair trial. The freedom of the Media, esp. TV News media, cannot be allowed to super-stretch to a point where by outpouring reprobate information it brings to clog and cloud the pellucid comprehension of „facts/news“ in the people’s minds and impinges upon free and fair investigation of the matter.
- xvi. that the actions of the Media in sensationalizing Sushant Singh Rajput’s death is not only adversely impacting the ongoing investigation by the CBI, but is also in the teeth of the “doctrine of postponement” propounded by a Constitution Bench of the Hon’ble Supreme Court in ***Sahara India Real Estate Corpn. Ltd. v. SEBI, (2012) 10 SCC 603.***
- xvii. That there is no gainsaying that the Respondents in abject disregard and violation of the journalistic code and ethics have blown out of proportion and sensationalised beyond imagination the investigation into Sushant Singh Rajput's death. It is reiterated that such actions of the Respondent falls foul of the law propounded by the Hon’ble Supreme Court in Sahara’s case which reads as under:

“42. At the outset, we must understand the nature of such orders of postponement. Publicity postponement orders should be seen in the context of Article 19(1)(a) not being an absolute right. The US *clash model* based on collision between freedom of expression (including free press) and the right to a fair trial will not apply to the Indian Constitution. In certain cases, even the accused seeks publicity (not in the pejorative sense) as openness and transparency is the basis of a

fair trial in which all the stakeholders who are a party to a litigation including the Judges are under scrutiny and at the same time people get to know what is going on inside the courtrooms. These aspects come within the scope of Article 19(1) and Article 21. When rights of equal weight clash, the Courts have to evolve balancing techniques or measures based on recalibration under which both the rights are given equal space in the constitutional scheme and this is what the “postponement order” does, subject to the parameters mentioned hereinafter. But, what happens when the courts are required to balance important public interests placed side by side. For example, in cases where presumption of open justice has to be balanced with presumption of innocence, which as stated above, is now recognised as a human right. These presumptions existed at the time when the Constitution was framed [existing law under Article 19(2)] and they continue till date not only as part of rule of law under Article 14 but also as an Article 21 right. The constitutional protection in Article 21 which protects the rights of the person for a fair trial is, in law, a valid restriction operating on the right to free speech under Article 19(1)(a), by virtue of force of it being a constitutional provision. Given that the *postponement orders* curtail the freedom of expression of third parties, such orders have to be passed only in cases in which there is *real and substantial risk* of prejudice to fairness of the trial or to the proper administration of justice which in the words of Justice Cardozo is “the end and purpose of all laws”. However, such orders of postponement should be ordered for a limited duration and without disturbing the content of the publication. They should be passed only when necessary to prevent real and substantial risk to the fairness of the trial (court proceedings), if reasonable alternative methods or measures such as change of venue or postponement of trial will not prevent the said risk and when the salutary effects of such orders *outweigh* the deleterious effects to the free expression of those affected by the prior restraint. The order of postponement will only be appropriate in cases where the balancing test otherwise favours non-publication for a limited period. It is not possible for this Court to enumerate categories of publications

amounting to contempt. It would require the courts in each case to see the content and the context of the offending publication. There cannot be any straitjacket formula enumerating such categories. In our view, keeping the above parameters, if the High Court/Supreme Court (being courts of record) pass postponement orders under their inherent jurisdictions, such orders would fall within “reasonable restrictions” under Article 19(2) and which would be in conformity with societal interests, as held in *Cricket Assn. of Bengal* [(1995) 2 SCC 161]. In this connection, we must also keep in mind the language of Article 19(1) and Article 19(2). Freedom of press has been read into Article 19(1)(a). After the judgment of this Court in *Maneka Gandhi* [(1978) 1 SCC 248] (p. 284), it is now well settled that the test of reasonableness applies not only to Article 19(1) but also to Article 14 and Article 21. For example, right to access courts under Articles 32, 226 or 136 seeking relief against infringement of say Article 21 rights has not been specifically mentioned in Article 14. Yet, this right has been deduced from the words “equality before the law” in Article 14. Thus, the test of reasonableness which applies in Article 14 context would equally apply to Article 19(1) rights. Similarly, while judging reasonableness of an enactment even the directive principles have been taken into consideration by this Court in several cases (see the recent judgment of this Court in *Society for Unaided Private Schools of Rajasthan v. Union of India* [(2012) 6 SCC 1]). Similarly, in *DharamDutt v. Union of India* [(2004) 1 SCC 712], it has been held that rights not included in Article 19(1)(c) expressly, but which are deduced from the express language of the article are concomitant rights, the restrictions thereof would not merely be those in Article 19(4). Thus, *balancing* of such rights or equal public interest by *order of postponement of publication or publicity* in cases in which there is *real and substantial risk* of prejudice to the proper administration of justice or to the fairness of trial and within the above enumerated parameters of necessity and proportionality would satisfy the test of reasonableness in Articles 14 and 19(2). One cannot say that what is reasonable in the context of Article 14 or Article 21 is not reasonable when it comes to Article 19(1)(a).

Ultimately, such orders of postponement are only to *balance* conflicting public interests or rights in Part III of the Constitution. They also satisfy the requirements of justification under Article 14 and Article 21.”

46. One aspect needs to be highlighted. The shadow of the law of contempt hangs over our jurisprudence. The media, in several cases in India, is the only representative of the public to bring to the notice of the court issues of public importance including governance deficit, corruption, drawbacks in the system. Keeping in mind the important role of the media, courts have evolved several neutralising techniques including postponement orders subject to the twin tests of necessity and proportionality to be applied in cases where there is *real and substantial risk* of prejudice to the proper administration of justice or to the fairness of trial. Such orders would also put the media to

notice *about possible contempt*. However, it would be open to media to challenge such orders in appropriate proceedings. Contempt is an offence *sui generis*. Purpose of contempt law is not only to punish. Its object is to preserve the sanctity of administration of justice and the integrity of the pending proceeding. *Thus, the postponement order is not a punitive measure, but a preventive measure as explained hereinabove.* Therefore, in our view, such orders of postponement, in the absence of any other alternative measures such as change of venue or postponement of trial, satisfy the requirement of justification under Article 19(2) and they also help the courts to balance conflicting societal interests of right to know vis-à-vis another societal interest in fair administration of justice

- xviii. That it is not hidden from this Hon'ble Court that in the past when the Media has conducted trial in several high profile cases the competent court has acquitted the accused persons, and the same have been embarrassed and smudged to an extent owing to interference and unwarranted parallel-trials by the Media, for instance *K.M. Nanawati Murder Case, Arushi Talwar Murder Case, 2G spectrum cases* etc.

- xix. The fundamental or moot question of law, which arises for the consideration of this Hon'ble Court is that whether the Media, in the garb of „reporting“ news, can serve their opinions as „facts/news“.
- xx. It is pertinent to mention, that the basic function of Media is to report news and facts as they come, and the formulation of any opinion(s) on the same is within the complete and exclusive dominion of the people. However, Media as has been well observed, works to create or induce „opinions," by narrating and reporting opinionated and tailored facts as „news," which is beyond the scope, power and privilege accorded to the proverbial fourth-pillar and a blatant abuse and misuse of the thereof, and the same is impermissible and against all the canons of justice in a democracy.
- xxi. The Aurangabad bench of this Hon'ble Court *vide* its judgment dated 21.08.2020 in Criminal W.P. No. 548/2020, **Konan Kodio Ganstone & ORS. v. State of Maharashtra** has criticized the media for its unwarranted propaganda in Tabligi Jamat case and observed, as to how severely unwarranted propaganda and opinionated news harms people. In this regard, Para 27 of the Judgment is germane and the same is extracted hereunder, for sake of convenience and ready reference:

“...There was big propaganda in print media and electronic media against the foreigners who had come to Markaz Delhi and an attempt was made to create a picture that these foreigners were responsible for spreading covid-19 virus in India. There was virtually persecution against these foreigners. A political Government tries to find the scapegoat when there is pandemic or calamity and the circumstances show that there is probability that these foreigners were chosen to make them scapegoats. The aforesaid circumstances and the latest figures of infection in India show that such action against present Petitioners should not have been taken. It is now high time for the concerned to repent about

this action taken against the foreigners and to take some positive steps to repair the damage done by such action.”

True copy of the judgment in Criminal W.P. No. 548/2020, Konan Kodio Ganstone & ORS. v. State of Maharashtra is annexed hereto and marked as **“Exhibit F”**.

- xxii. Similarly, in the present case as well the media has been by its narrative indulged into defaming the investigating agencies, its officers and the State Government by presenting false, misconceived and half truths which is severely unwarranted propaganda and opinionated news harming people.
- xxiii. That the Action of the Respondents is a clear violation of the Programme Code and Code of ethics and broadcasting standards. The debates/opinions, media trial held by the several media channels covering the death of late of actor Sushant Singh Rajput is in clear violation of Programme Code as enumerated under the Cable Television Networks (Regulation) Act, 1995 and 1994 Rules A/w Code of Ethics & Broadcasting Standards, News Broadcasting Standards Regulations. True copy of the Cable Television Networks (Regulation) Act, 1995 and 1994 Rules A/w Code of Ethics & Broadcasting Standards, News Broadcasting Standards Regulations is annexed hereto and marked as **“Exhibit G, H and I”**.
- xxiv. The media coverage not only flouts and violates the mandate of Cable Television Networks (Regulation) Act, 1995 and 1994 Rules but is also in contravention of the Code of Ethics & Broadcasting Standards, News Broadcasting Standards Regulations.
- xxv. That the majority of the Media of this country is Corporate-Media, not owned and/or controlled by the State/Government, but rather by Corporate and Business

houses which thrive upon and function upon TRP-driven and ratings and viewership oriented „business-models,“ to generate profits for themselves by attracting advertisements, sponsorships, investments, etc.

xxvi. Thus, it will not be incorrect to state that just like any line of business, Media is extremely competitive and manufactures and sells „news“ to the people instead of directly reporting the same, in a bid to gain an edge in ratings over their competition. For this, they engage in tabloidization and sensationalization of news, blowing ordinary or normal news extravagantly out of proportions, and the same strikes a blow upon the rational faculties and democratic instincts of the people, as is also a fraud and disservice to the nation, which more often than not, distracts viewers from the real issues at hand and results in making the democracy as a whole, docile, imbecilic and feeble-minded.

xxvii. The Media is plagued with the affliction of Disproportionate Reporting, which may be seen from the undue coverage given to a inconsequential and mindless matters, unrelated to the greater good of the people of India, as opposed to issues of national and international importance which the people are grappling with, such as the covid-19 crisis, mass joblessness, economic downfall, starvation, medical and healthcare structural-problems, farmer issues, domestic violence, etc., in an endless list, which hardly ever get any substantial, significant or considerable coverage, paling in comparison with the TV-time given to exaggerated and sensationalized non-issues.

xxviii. In view of the above, it is conspicuous that the Media-Industry is largely indifferent and unconcerned with best interests of the people at large, instead they are solely focused on earning „profits“ in the form of TRPs, ratings and viewership. Be that as it may.

xxix. It is no doubt that in a democratic country like India the media also has played the overwhelmingly important role of exposing wrongs and injustices, evidence of corruption, failures of the administration and in the investigation of crimes, *inter alia*, via unbiased investigative journalism, however, it is definitely not in the domain of the media to prove someone guilty in an ongoing case and to create distraction or manipulate/manufacture the facts, or give undue attention or weightage to certain issues over others, or to spin issues out of thin air.

xxx. It is a cardinal principle of criminal law, that an accused is presumed to be innocent until proven guilty, and there is no question of guilt or innocence till the investigation and Trial by competent authorities is complete, however, it seems that the Media (including social/digital-media, as well) is hell-bent upon painting the accused person(s) named in FIR as guilty and culpable, through relentless, repetitive and reiterative rhetoric and emphasis.

xxxi. The Hon^{ble} Apex Court in ***Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1*** has observed as below:

“297. There is danger of serious risk of prejudice if the media exercises an unrestricted and unregulated freedom such that it publishes photographs of the suspects or the accused before the identification parades are constituted or if the media publishes statements which outrightly hold the suspect or the accused guilty even before such an order has been passed by the court.

298. Despite the significance of the print and electronic **media** in the present day, it is not only desirable but the least that is expected of the persons at the helm of affairs in the field, to ensure that trial by media does not hamper fair investigation by the investigating agency and more importantly does not prejudice the right of defence of the accused in any manner whatsoever. It will amount to travesty of justice if either of this causes impediments in the

accepted judicious and fair investigation and trial.

299. ...The freedom of speech protected under Article 19(1)(a) of the Constitution has to be carefully and cautiously used, so as to avoid interference with the administration of justice and leading to undesirable results in the matters sub judice before the courts.”

- xxxii. In ***R.K. Anand v. Delhi High Court*** [(2009) 8 SCC 106] the Hon^{ble} Supreme Court observed that it would be a sad day for the court to employ the media for setting its own house in order and the media too would not relish the role of being the snoopers for the court. Media should perform the acts of journalism and not as a special agency for the court. “The impact of television and newspaper coverage on a person's reputation by creating a widespread perception of guilt regardless of any verdict in a court of law.” This will not be fair. Even in *M.P. Lohia v. State of W.B.* [(2005) 2 SCC 686 : 2005 SCC (Cri) 556] the Court reiterated its earlier view that freedom of speech and expression sometimes may amount to interference with the administration of justice as the articles appearing in the media could be prejudicial, this should not be permitted.
- xxxiii. That while the freedom of speech and expression of press and media is quintessential to the flourishing of democracy, such right is not absolute and is subject to various restrictions to be imposed reasonably. It is also submitted that the Hon^{ble} Supreme Court and also this Hon^{ble} Court in series of judgment has time and again held that the right to fair trial of an accused is a fundamental aspect of the rule of law which is a part of basic structure.
- xxxiv. The unwarranted, illegal and irresponsible coverage by the broadcaster with the sole aim to sensationalise and scandalise the tragic incident and to malign public personalities does not fit the realm of freedom of free speech and expression which is evident from unsolicited

mention names of various public personalities without their being shred of evidence. It was made with intention either to create political crisis and mistrust, for garnishing some ratings or for any other vested reasons.

xxxv. In view of the above the Petitioners are seeking temporary postponement of publication of process and progress investigation, court proceedings which are necessary to maintain balance between freedom of speech and fair trial for proper administration of justice and only disseminate the press release or status as and when released by the investigating agency.

xxxvi. The Petitioners seeks direction seeking restrain on broadcasting content which is defamatory, deliberate, false and suggestive innuendos, half truths, irresponsible vilification, of the State machinery, or the officers of the State in view of the fact Central Bureau of Investigation is investigating the cause of the death of the late actor Sushant Singh Rajput and the CBI which is the premier investigating agency will submit the final report before the Competent Court, *interalia*, demonstrating the correct cause of death of the Late Actor Sushant Singh Rajput.

xxxvii. It is submitted that the medial trial poses *real and substantial risk* of prejudice to the proper administration of justice or to the fairness of trial and such neutralising device (balancing test) would not be an unreasonable restriction and on the contrary would fall within the proper constitutional framework. It is no doubt that the citizens have right to know about the progress of investigations in the beloved actors death. However, the aforesaid information could not be by way of Media Trials by exposing the witnesses and evidences which could be vital and may impact the ongoing investigation. The media be only limited to publish the information which CBI chooses to make it available to public at large.

- xxxviii. The Hon^{ble} Apex Court in Public Interest Litigation Advocate Surat Singh vide order dated 09.10.2010 cautioned the media against irresponsible reporting. The Hon^{ble} Supreme Court observed that "We not only reiterate our interim order of July 22, 2008, but also restrain the respondents from publishing material which has potential to interfere with the process of investigation of all cases."
- xxxix. The apex court further observed "We however clarify that this would not prohibit publication of information which will not interfere with investigation, damage reputation or prejudice the accuse."
- xl. The Hon^{ble} Supreme Court issued only a case specific order and this right of the accused to privacy is well protected by the Constitution and it does not restrain the media from investigating a crime, the aforesaid principle be applied in the present case as well.
- xli. The Hon^{ble} Apex Court in para 50 of Sahara judgment has held that anyone, be he an accused or an aggrieved person, who genuinely apprehends on the basis of the content of the publication and its effect, an infringement of his/her rights under Article 21 to a fair trial and all that it comprehends, would be entitled to approach an appropriate writ court and seek an order of postponement of the offending publication/broadcast or postponement of reporting of certain phases of the trial.

50. In the light of the law enunciated hereinabove, anyone, be he an accused or an aggrieved person, who genuinely apprehends on the basis of the content of the publication and its effect, an infringement of his/her rights under Article 21 to a fair trial and all that it comprehends, would be entitled to approach an appropriate writ court and seek an order of postponement of the offending publication/broadcast or postponement of reporting of certain phases of the trial

(including identity of the victim or the witness or the complainant), and that the court may grant such preventive relief, on a balancing of the right to a fair trial and Article 19(1)(a) rights, bearing in mind the abovementioned principles of necessity and proportionality and keeping in mind that such orders of postponement should be for short duration and should be applied only in cases of *real and substantial risk* of prejudice to the proper administration of justice or to the fairness of trial. Such neutralising device (balancing test) would not be an unreasonable restriction and on the contrary would fall within the proper constitutional framework.

- xlii. That this Hon'ble Court can certainly pass appropriate direction in the present scenario and keeping in mind the larger perspective in the exceptional and unprecedented circumstances prevailing as of now, to ensure that the fundamental rights of the Petitioners are protected and/or not violated at the hands of the respondents as non-extension or non-grant of benefits as prayed for by the Petitioners herein.
- xliii. That not only this Hon'ble Court, the Hon'ble Supreme Court and other High Courts have in such exceptional circumstances and keeping in mind the public sentiments and right to information have imposed reasonable restrictions on media which could hinder the administration of justice.
- xliv. That in the set of circumstances and the situation which has arise, the Petitioners legitimately expect an order seeking postponement of publication or restraining the media from publishing or conducting the Trial.
- xlvi. That the Petitioners have only arrayed the major, mainstream TV channels as Respondents 6 to 11, for the sake of succinctness and concision, which account for the majority of the TV viewership in the State and the Country,

and they seek liberty to array any other considerable News Channel/Network as a Respondent, as may be directed and deemed fit by this Hon“ble Court, or this Hon“ble Court may in its discretion, order the impleadment of the same, as it thinks fit.

10. Sources of Information relied upon:

- i. Judgments of Hon“ble Apex Court and this Hon“ble Court
- ii. New paper Articles
- iii. Social media platforms
- iv. Television-News,

all of which is in the public domain and it is in the pleasure of this Hon“ble Court to take judicial notice thereof; several of which sources the Petitioners are not filing as Annexures for the sake of brevity, but seek the liberty to file/produce the same, as and when directed, for the perusal and assistance of this Hon“ble Court.

11. Delay if any in filing the Petition and explanation thereof:

That there is no delay in filing the present Writ Petition under the Article 226 Constitution of India, 1950.

12. The Petitioners have filed the present Petition before this Hon“ble Court under Article 226 of the Constitution of India and therefore this Petition can be heard and disposed of by this Hon“ble Court.

13. The Petitioners states that the Petitioners have paid all the proper Court fees stamp.

14. The Petitioners shall rely upon documents, a list of the same are annexed herein with this Petition.

15. The Petitioners states that Petitioners have not filed any other Petition in respect of the reliefs prayed in this Petition, in any other Court of law. The Petitioners further submits that, in the facts of the case, the Petitioners have no other remedy available

save and except by way of approaching this Hon“ble Court under Article 226 of the Constitution.

16. The Petitioners states that the Office of Respondents are within the jurisdiction of this Hon“ble Court; and the present Petition involves question of Public Interest; and therefore, this Hon“ble Court shall have the territorial jurisdiction to entertain and pass authoritative Orders, as prayed for hereinafter.
17. The Petitioners crave leave to add, amend, delete and/or modify and of the grounds/submissions/pleadings as and when required.

PRAYERS

THE PETITIONERS THEREFORE RESPECTFULLY PRAYS AS UNDER: -

- a. - Issue writ of mandamus or any other writ/order of direction to the Respondents to issue necessary instructions to the Media channels both print and electronic for temporary postponement of news reporting by way of telecasting, publishing, republishing reports/articles and/or carrying out discussions/debates of any kind by the Media both Electronic and Print tantamount to “Media Trial” or “Parallel Investigation” or “examining or cross examining the witnesses or the vital evidence, which has the effect of directly or indirectly interfering with the investigation process without preventing from publishing information which does not in any way interfere with the investigation or seek to sully the character and reputation of the victim/accused/witnesses or any other person or prejudice the defence in any manner in respect of FIR No.

registered by the Central Bureau of Investigation on 06.08.2020 relating to the unfortunate demise of Actor Sushant Singh Rajput; and

- b. Direct the Respondents to ensure that the tenets of the programme code are followed in both letter and spirit, as laid down in Cable Television Networks (Regulation) Act, 1995 and 1994 Rules; and
- c. Direct the Respondent Nos. 1 to 3 to keep strict vigil on the media channels in sensitive cases and issue necessary guidelines/instructions directing the Media to adhere with the Cable Television Networks (Regulation) Act, 1995 and 1994 Rules and take necessary stringent actions against such media channels who conduct the “Media Trial” in violation of the programme code and journalistic ethics; and
- d. Grant ex-parte ad-interim directions to the Media both Electronic and Print restraining from news reporting by way of telecasting, publishing, republishing reports/articles and/or carrying out discussions/debates of any kind tantamount to “Media Trial” or “Parallel Investigation” or “examining or cross examining the witnesses or the vital evidence, which has the effect of directly or indirectly interfering with the investigation process in respect of FIR No. _____ registered by the Central Bureau of Investigation on 06.08.2020 relating to the unfortunate demise of Actor Sushant Singh Rajput without preventing

from publishing information which does not in any way interfere with the investigation or seek to sully the character and reputation of the victim/accused/witnesses or any other person or prejudice the defence in any manner till the disposal of the present Petition; and

- e. For such other and further relief/s that this Hon'ble Court may deem fit and proper in the circumstances of the case;
- f. Cost of the present proceedings.

AND FOR THIS ACT OF KINDNESS THE CLAIMANT SHALL BE DUTY BOUND EVER PRAY.

Signatures,

RTI

Mr. Nilesh Navalakha
Petitioner No. 1

DRAWN BY:

RAJESH INAMDAR
SHASHWAT ANAND
ADITYA BHAT
SMITA PANDEY
ADVOCATES

[Ranjay K. Kandhari]
Advocate for the Petitioners

