

SUPREME COURT OF INDIA

Salim Khan

Vs.

Sanjai Singh

(G Pattanaik and U Banerjee JJ.)

15.12.1999

ORDER

1. This is an informant's application for cancellation of bail of accused Sanjai Singh who has been released on bail by the High Court of Allahabad by order 10.08.1999. In the instant case chargesheet has already been filed and four people have died. In course of investigation materials have been collected by examining persons under Sections 161 Cr.P.C. which implicate the accused Sanjai Singh as one of the assailants. Notwithstanding the gravity of offence and the materials against Sanjai Singh the High Court has adopted a totally erroneous approach and because of the fact that in the statement of Rajendra Dwivedi who is also an injured the name of Sanjai Singh has not been indicated as an assailant the High Court has granted bail. This approach of the High Court is wholly erroneous. The High Court at this stage is duty bound to consider all the statement recorded under Section 161 Cr.P.C. examine the gravity of the offence and also examine the question of possibility of the accused tampering with the evidence and possibility of getting the attendance of the accused during trial and then would be entitled to grant bail to an accused. The impugned order does not indicate that the High Court has taken the relevant material into consideration while releasing Sanjai Singh on bail. It is the State who ought to have assailed the order granting bail but the State is totally silent inasmuch as the learned Counsel appearing for the State submits that he has no instructions in the matter. According to the learned Counsel appearing for the State though the concerned officer came to instruct him but did not come with the proper file. This in our opinion is the callousness of the officer in instructing their counsel in such matter. We deprecate this attitude of the State and its officer in trying to protect the interest of the citizen of this country. We fail to understand how the State of Uttar Pradesh is remaining silent in such matters and is not discharging its obligation as a prosecutor. It is the duty of the State which the informant is now discharging by bringing it to the notice of this Court that in such a grave offence the High Court has released the accused person on bail erroneously. It may be noted that two other accused persons had applied for bail but their prayer for bail was rejected by the High Court. The impugned order of the High Court

on the face of it cannot be sustained and we accordingly quash the same. Sanjai Singh be taken into custody forthwith.

2. The special leave petition is disposed of. The trial may be expedited.

3. A copy of this order be sent to the chief Secretary, Home Secretary, Director General of Police and the Minister Incharge of Home Affairs of the State of Uttar Pradesh.