

SUPREME COURT OF INDIA

Laxman Nath

Vs.

State of Madhya Pradesh

S.L.P. (Crl.) No. 4264 of 2003

(B. N. Agarwal and H. K. Sema JJ.)

16.07.2004

ORDER

Heard learned counsel for the parties.

1. Leave granted.

2. This appeal has been filed challenging order dated 30.4.2003 passed in Criminal Appeal No. 124/1999 by the Indore Bench of Madhya Pradesh High Court whereby prayer for bail made on behalf of the appellant was refused. The short facts are that the appellant was convicted in a case under Section 302 read with Section 34 of the Penal code by trial Court and sentenced to undergo imprisonment for life. On appeal being preferred, the High Court admitted the same and by its order dated 7.6.1999 granted bail. After the grant of bail, the appellant was made accused in another case under Section 302 of the Penal code and in view of that, on prayer being made by the prosecution, bail granted to the appellant was cancelled by the High Court on 22.7.2002. Thereupon, in the second case, which was the ground for cancellation of bail, though trial proceeded, but by order dated 31.3.2003 rendered by the trial Court, the appellant was acquitted on merits. Against the said order, no appeal, undisputedly, was preferred on behalf of the State of Madhya Pradesh whereas the private prosecutor filed a revision before the High court which was dismissed on 8.1.2004. In the meantime, the appellant filed a fresh application before the High Court for grant of bail during the pendency of appeal in view of the aforesaid facts which has been rejected by the impugned order.

3. Having heard the parties and perused the impugned order, we are of the opinion that in view of the fact that the appellant has been already acquitted by the trial court in subsequent case filed against him and the order of acquittal has been confirmed, the ground for cancellation of bail, which was there in existence when the High Court cancelled the bail, does not subsist. Therefore, the High Court was not justified in refusing the prayer for grant of bail to the appellant.

4. Accordingly, the appeal is allowed, impugned order is set aside and the appellant is

directed to be released on bail on furnishing bail bonds of Rs. 10, 000/- to the satisfaction of the trial Court.