

SUPREME COURT OF INDIA

Umesh Singh

Vs.

High Court of Allahabad

CrI.A.No.1070 of 2008

(K.G. Balakrishnan CJI., P. Sathasivam and J.M. Panchal JJ.)

11.07.2008

ORDER

1. Delay condoned.

2. Leave granted.

3. The appellant had joined the U.P.Higher Judicial Service as a direct recruit on 14.12.1998 and was posted as VII Addl.District & Sessions Judge, Deoria. The appellant, while working as Additional Sessions Judge at Bareilly, declined bail to an accused, who was suspected to be in possession of some stolen ornaments and jewellery. The accused was arrested by the police while she was trying to sell the stolen property. The learned Sessions Judge was of the view that the accused might have been possessing stolen articles and the bail was rejected. This order was challenged by the accused before the High Court. The learned single Judge of the High Court granted bail to the accused and directed that notice be issued to the Sessions Judge as to why he had declined bail to the accused and that which offence was committed by the accused and thereafter notice was issued to the appellant herein as to why disciplinary proceedings should not be taken against him. The appellant submitted his explanation in reply. Thereafter the learned single Judge observed that no case was made out against the accused and the rejection of the bail was unjustified and ordered that adverse remark of warning be entered in the character roll of the appellant for passing careless orders on the bail application. This order is under challenge before this Court.

4. Heard learned counsel for the appellant and learned counsel for the respondent-High Court.

5. In our opinion, the learned single Judge was wrong in observing that no offence was made out against the accused. A person suspected to be in possession of stolen property may be alleged to have committed an offence and the Sessions Judge was justified in declining bail, especially when there was no proper explanation from the side of the accused. The learned single Judge was not correct in arriving at such a view but we make it clear that we do not want to make any observation against the accused at this stage on merits nor do we observe

anything against the grant of bail given by the learned single Judge in the proceedings. However, the learned single Judge of the High Court was not justified in making such adverse remarks against the Sessions Judge especially when there is nothing to show on the part of the Sessions Judge, that he was acting without any bonafide in discharging his judicial functions.

6. The order of the learned single Judge is set aside as the same affects the career of the appellant. The appeal is allowed accordingly.