

SUPREME COURT OF INDIA

Association of Victims of Uphar Tragedy

Vs.

Gopal Ansal

CrI.A.Nos.1452-1455 of 2008

(B.N. Agrawal and G.S. Singhvi JJ.)

10.09.2008

ORDER

1. Leave granted.

2. Heard Shri K.T.S. Tulsi, learned senior counsel appearing on behalf of Association of Victims of Uphar Tragedy [hereinafter referred to as "the Association"], Shri Gopal Subramaniam, learned Additional Solicitor General appearing on behalf of the Central Bureau of Investigation, Shri Fali S. Nariman and Shri Uday U. Lalit, learned senior counsel appearing on behalf of Shri Sushil Ansal, Shri D.A. Dave, learned senior counsel appearing on behalf of Shri Gopal Ansal and Shri Sushil Kumar, learned senior counsel appearing on behalf of Shri Nirmal Singh Chopra and Shri Ajit Chaudhary.

3. A perusal of the record shows that the trial Court convicted accused Shri Gopal Ansal and Shri Sushil Ansal under Section 304-A read with Section 36 of the *Indian Penal Code, 1860* [hereinafter referred to as "I.P.C."] and sentenced them to undergo rigorous imprisonment for a period of two years and to pay fine of Rupees five thousand each and in default, to undergo simple imprisonment for a further period of six months. They have been further convicted under Section 337 read with Section 36 I.P.C. and sentenced to undergo rigorous imprisonment for a period of six months. They have been also convicted under Section 338 read with Section 36 I.P.C. and sentenced to undergo rigorous imprisonment for a period of two years. They have been then convicted under Section 14 of the Delhi Cinematograph Act, 1952 and sentenced to pay fine of Rupees one thousand each and in default, to undergo simple imprisonment for a period of two years. Accused Shri Nirmal Singh Chopra and Shri Ajit Chaudhary have been convicted under Section 304 read with Section 36 I.P.C. and sentenced to undergo rigorous imprisonment for a period of seven years and to pay fine of Rupees five thousand each and in default to undergo simple imprisonment for a further period of six months.

4. Against their convictions and sentences, the aforesaid four accused persons preferred regular appeals before the High Court, which have been duly admitted, and pending hearing of the appeals, all of them have been ordered to be released on bail.

5. In criminal appeals filed by the Association, prayer has been made for setting aside the orders granting bail to all the aforesaid four accused persons whereas in criminal appeals filed on behalf of the Central Bureau of Investigation, prayer has been made for setting aside the orders granting bail to accused Shri Ajit Chaudhary and Shri Nirmal Singh Chopra. During the course of arguments, Shri Gopal Subramaniam, learned Additional Solicitor General, made a statement that he joins the prayer made on behalf of the Association for setting aside the orders granting bail even to Shri Sushil Ansal and Shri Gopal Ansal.

6. We have heard learned counsel for the parties at length, perused the voluminous record and gave our anxious consideration to the entire matter.

7. Ordinarily, we would have disposed of these appeals by recording a detailed order, but keeping in view the fact that the appeals preferred by the aforementioned four persons and others who were convicted by the trial Court are pending hearing before the High Court and any expression of opinion on the merits of the case is likely to prejudice the case of either of the parties, we refrain from adopting that course. However, in the facts and circumstances of the case, we are convinced that the High Court was not justified in granting bail to Shri Nirmal Singh Chopra and Shri Ajit Chaudhary, who have been convicted under Section 304 read with Section 36 I.P.C.

8. So far as Shri Sushil Ansal and Shri Gopal Ansal are concerned, we are of the view that even though they have been convicted under Section 304-A read with Section 36 I.P.C., Section 337 read with Section 36 I.P.C. and Section 338 read with Section 36 I.P.C. and it is well settled that in an appeal against conviction under these sections, the offences being bailable, bail is granted without much ado but, in the facts and circumstances of the present case, especially in view of the conduct of these accused persons after grant of bail during trial, the High Court was not justified in granting bail to them.

9. Accordingly, the appeals are allowed, impugned orders granting bail to S/Shri Sushil Ansal, Gopal Ansal, Nirmal Singh Chopra and Ajit Chaudhary are set aside, bail bonds furnished by them during the pendency of these appeals pursuant to the orders of this Court are cancelled and they are directed to surrender before the trial Court at Patiala House, New Delhi, latest by 4.00 p.m. tomorrow, i.e. 11th September, 2008, to serve out the remaining period of sentence.

10. It is, however, made clear that this order shall not, in any manner, prejudice the case of any of the accused persons in the appeals which are pending before the High Court or the case arising out of F.I.R. No.207/2006 dated 17th May, 2006, P.S. Tilak Marg, New Delhi, which is pending trial before the Additional Chief Metropolitan Magistrate, New Delhi.

11. Having regard to the facts of this case we feel that it would be in the interest of justice that the appeals pending before the High Court are disposed of with utmost expedition. We are told that the learned Single Judge who is presently hearing the appeals is not in a position to devote full time as he is in-charge of the original jurisdiction. Therefore, it would be

appropriate that the appeals are placed before any other appropriate learned Judge nominated by the learned Chief Justice of Delhi High Court.

12. Learned counsel for the parties agree that the hearing of the appeals should be taken up on day-to-day basis. Accordingly, we direct that the appeals pending before the High Court shall be taken up for hearing by another learned Judge, so nominated by the learned Chief Justice. Court shall hear the appeals on day-to-day basis for whole day. At the conclusion of hearing, judgment in the appeals is expected to be delivered as expeditiously as possible.

13. Special Leave Petition (Crl) No.4391 of 2008:

“Heard learned counsel appearing on behalf of the petitioner, Central Bureau of Investigation and the Association.

We do not find any ground to interfere with the impugned order.”

The special leave petition is, accordingly, dismissed.