

SUPREME COURT OF INDIA

Vinod Singh Negi

Vs.

State of Uttar Pradesh

CrI.A.No.1234 of 2019

(Abhay Manohar Sapre and R.Subhash Reddy,JJ.,)

14.08.2019

JUDGMENT

Abhay Manohar Sapre,J.,

SLP(CrI.)No.1480 of 2019

1. Leave granted.
2. These appeals are filed against the final judgment and order dated 19.09.2018 passed by the High Court of Judicature at Allahabad in whereby the High Court released the respondents(accused persons) in both the appeals on bail by suspending their sentence of life imprisonment awarded by the Trial Court in S.T. No.465 of 2006 and S.T. No.466 of 2006.
3. In order to appreciate the short question involved in these appeals, a few facts need mention hereinbelow.
4. The appellant in both the appeals is the complainant whereas Umesh Sharma-respondent No. 2 in Criminal Appeal @ SLP(CrI.) No.1480 of 2019, Ashok-respondent No. 2 and Parvinder Singh- respondent No.3 in Criminal Appeal @ SLP(CrI.) No.1481 of 2019 are the accused persons.
5. Three accused persons, namely, Umesh Sharma, Ashok and Parvinder Singh were prosecuted under Section 302/34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") for commission of murder of one -Manoj, who was brother of the appellant-complainant.
6. By judgment dated 28.10.2014/30.10.2014, the Additional Sessions Judge/Special Judge, E.C. Act, Ghaziabad convicted all the three accused persons under Section 302/34 IPC and sentenced them rigorous imprisonment for life with fine of Rs.50,000/- each in S.T. No 465 and 466 of 2006.

7. The three accused persons felt aggrieved by their order of conviction and sentence filed criminal appeal in the High Court of Allahabad. During pendency of appeals, all the three accused persons applied for suspension of their jail sentence.

8. By impugned order, the High Court allowed the applications made by all the three accused persons and suspended their respective jail sentence by directing that all the three accused be released on bail.

9. It is against this order, the complainant felt aggrieved and has filed these two appeals by way of special leave in this Court. So far as the State (R-1) is concerned, it has supported the appellant by filing their counter affidavit along with annexures. So far accused persons are concerned, they were served and duly represented except respondent No.3 in CrI.A.@ SLP(CrI.)No.1481/2019. The name of respondent No.3, namely, Parvinder Singh, in was deleted from the array of parties by this Court order dated 08.05.2019.

10. So, the short question, that arises for consideration in these appeals, is whether the High Court was justified in directing release of all the aforementioned accused persons during pendency of their appeals.

11. Heard Mr. Siddharth Dave, learned senior counsel for the appellant and Mr. Shrish Kumar Misra, learned counsel for the State of U.P. in both the appeals, Mr. Sidharth Luthra, learned senior counsel for respondent No.2 in CrI.A.@ SLP(CrI.) No.1480/2019, Mr. Ajit Kumar Sinha, learned senior counsel for respondent No.2 in CrI.A.@SLP (CrI.) No.1481/2019.

12. Having heard the learned counsel for the parties at length and on perusal of the record of the case, we are constrained to allow these appeals and while setting aside the impugned order, remand the case to the High Court for deciding the applications of these respondents(Accused persons) filed for grant of bail/suspension of jail sentence afresh on merits. The remand is made for two reasons as set out below.

13. In the first place, we find that the High Court has not assigned any reason for grant of bail. How the application of bail/suspension of jail sentence should be decided by the Courts and what should be the approach of the Court while deciding such application remains no more res integra and is laid down by this Court in series of cases (see *Ajay Kumar Sharma vs. State of U.P. & Ors¹*, *Lokesh Singh vs. State of U.P. & Anr²*, *Dataram Singh vs. State of U.P. & Anr³*, & judgment dated 29.07.2019 in CrI.A. No.1150/2019 etc.etc. *Mauji Ram vs. State of U.P. & Anr.*).

14. In our view, the law laid down by this Court in the aforementioned cases was not followed by the High Court while passing the impugned order and, therefore, interference in the impugned order is called for.

15. In the second place, we find that the appellant (complainant) and the State have filed additional evidence against the accused persons for the first time in these appeals to show the criminal background of the accused persons and the list of criminal cases pending

against some accused persons for commission of several offences. The list shows that some cases were registered against the concerned respondents (accused persons) prior to the grant of bail and some cases were registered after the grant of bail. The High Court did not take note of these facts.

16. In the light of the aforementioned two grounds, we are of the considered opinion that the impugned order deserves to be set aside and the case is remanded to the High Court enabling it to reconsider the applications for grant of bail/suspension of jail sentence afresh on their respective merits keeping in view the two grounds noted above. The appeals thus succeed and are accordingly allowed. The impugned order is set aside.

17. The case is remanded to the High Court for deciding the applications filed by the respondents (accused persons) for grant of bail/suspension of their jail sentence afresh on their respective merits keeping in view the law laid down by this Court in the aforementioned decisions coupled with the material filed by the State and the complainant in support of their case. The High Court after hearing all the parties shall pass appropriate order on the applications in accordance with law.

18. Since the impugned order is set aside, the accused persons are directed to surrender for being taken into custody. Their bail bonds stand cancelled.

Judgment Referred.

¹(2005) 7 SCC 0507

²(2008) 16 SCC 0753

³(2018) 3 SCC 0022