

2022 LiveLaw (SC) 344

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

DR. DHANANJAYA Y. CHANDRACHUD; SURYA KANT, JJ.

April 1, 2022

Criminal Appeal No 541 of 2022 (Arising out of SLP (Crl) No 1743 of 2022)

Rishipal @ Rishipal Singh Solanki Versus Raju and Another

Summary: Appeal against Allahabad HC granting bail to an accused - Allowed - Order of High Court granting bail to co-accused was earlier set aside - Reasons which have weighed with this Court in cancelling the bail which was granted to the co-accused would equally apply to the case of the first respondent which also arises out of the same first information report and incident.

(Arising out of impugned final judgment and order dated 09-11-2021 in CR MBA No.49007/2020 passed by the High Court of Judicature at Allahabad)

For Petitioner(s) Mr. Anupam Dwivedi, Adv. Mr. Alok Kumar Pandey, Adv. Mr. Sandeep Kumar Dwivedi, Adv. Mr. Satyam Pandey, Adv. Mr. Vikash Kumar Sinha, Adv. Mr. Vishweshwar Mishra, Adv. Mr. Parangat Pandey, Adv. Mr. Rakesh Mishra, AOR

For Respondent(s) Mr. Saurabh Trivedi, AOR Mr. Sarvesh Singh Baghel, AOR

ORDER

1. Leave granted.

2. This appeal arises from a judgment of the Single Judge of the High Court of Judicature at Allahabad in Criminal Miscellaneous Bail Application No 49007 of 2020. The first respondent sought bail under Section 439 of the Code of Criminal Procedure during the pendency of the trial arising out of Case Crime No 116 of 2020 for alleged offences punishable under Sections 147, 148, 149, 323, 307, 302 read with Section 34 of the Indian Penal Code (registered at police station Singhwali Ahir, District Baghpat). The application was allowed by the High Court.

3. Prior to the judgment of the High Court dated 9 November 2021, this Court in its judgment dated 5 March 2021 (Rishipal @ Rishipal Singh Solanki vs Amardeep and Others¹) had occasion to consider the correctness of an order dated 23 November 2020 granting bail to the co-accused, Amardeep and Bhushan arising out of the same FIR. By the judgment of this Court dated 5 March 2021, the order of the High Court granting bail was set aside.

¹Criminal Appeal No 271 of 2021

4. Notice was issued in these proceedings by an order dated 21 February 2022.

5. Mr Anupam Dwivedi, counsel has appeared on behalf of the appellant. Mr Saurav Trivedi, counsel appears on behalf of the first respondent. Mr Sarvesh Singh Baghel appears on behalf of the State of Uttar Pradesh.

6. We are unable to accept the approach of the High Court in granting bail to the first respondent despite the judgment of this Court dated 5 March 2021 having been specifically drawn to its notice. The High Court has not held that the case of the first respondent was distinguishable *prima facie* on facts for evaluating the case for the grant of bail. As a matter of fact, the reasons which have weighed with this Court in cancelling the bail which was granted to the co-accused would equally apply to the case of the first respondent which also arises out of the same first information report and incident.

7. We accordingly allow the appeal and set aside the impugned judgment and order of the High Court dated 9 November 2021 granting bail to the first respondent. The application for bail shall accordingly stand dismissed and the first respondent shall surrender no later than within a week from the date of this order.

8. If the trial is not concluded within a reasonable period, the first respondent will be at liberty to pursue the remedies which are available in law.

9. Pending applications, if any, stand disposed of.

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