

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).1278/2017
(Arising out of Special Leave Petition (Crl.) No(s). 2941/2017)

SUNIL @ SONYA MACCHINDRA GHULE

APPELLANT (s)

VERSUS

THE STATE OF MAHARASHTRA

RESPONDENT (s)

O R D E R

The appellant herein is implicated in a case registered under Sections 363, 366(A) and 376 of the Indian Penal Code, 1860 (IPC). He was taken into custody. After some time, he applied for bail under Section 439 of the Code of Criminal Procedure, 1973 (Cr.P.C). The Sessions Judge, Pune, vide order dated 04.02.2011 granted bail to him and in the process, it was observed that the investigation had been completed and evidence had been collected and, therefore, the appellant deserved bail. While the appellant was on bail in this case, he was again arrested in FIR No. 7/2012, which was registered against some unknown persons under Sections 302, 201 read with Section 34 of the IPC as well as 3(2)(3)(5) and (6) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In this case also, the appellant applied for bail and vide order dated 26.04.2012 he was released on bail with the

observation that no *prima facie* strong evidence existed against him. It is thereafter that an application for cancellation of bail, which was given to the appellant in FIR No. 235 of 2010 by the Sessions Judge, Pune vide order dated 04.02.2011, was filed. This application has been allowed by the Sessions Judge vide dated 11.08.2016. Being aggrieved by the order dated 11.08.2016, the appellant approached the High Court. The High Court dismissed the said application with the observation that while on bail the appellant misused his freedom since he is now involved in FIR No. 7 of 2012 which is registered under various sections of the IPC including Section 302 of the IPC as mentioned above.

However, we find that in the process the High has ignored a vital fact that in that very case i.e. FIR No. 7 of 2012, the appellant has been granted bail vide order dated 26.04.2012. It is also significant to note that cancellation petition of the said order of bail was moved by the State. However, the Court dismissed the petition filed by the State. It is, therefore, clear that insofar as FIR No. 7 of 2012 is concerned, the appellant is on bail. Once he has been granted bail in the said case, there was no reason to take shelter under the said case registered against the appellant and cancel the bail given to the appellant on 04.02.2011 in FIR No. 235 of 2010.

It may be noted that while issuing notice in this case, the impugned order of the High Court was stayed. In view thereof the appellant is still enjoying the benefit of bail order dated 04.02.2011. We, accordingly, set aside the impugned order and allow

the appeal. In case, if it is found, that the appellant is misusing his bail by either threatening the witnesses or tampering the record, it shall be open to the State to seek cancellation of the bail.

.....J.
[A.K. SIKRI]

.....J.
[ASHOK BHUSHAN]

NEW DELHI;
JULY 27.07.2017.

ITEM NO.3

COURT NO.7

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 2941/2017

(Arising out of impugned final judgment and order dated 23-03-2017
in CRLA No. 527/2016 passed by the High Court Of Bombay)

SUNIL @ SONYA MACCHINDRA GHULE

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

Date : 27-07-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. Nikhil Nayyar, Adv.
Mr. Sangram Singh Bhonsle, Adv.
Mr. T. V. S. Raghavendra Sreyas, AOR
Ms. Gayatri Gulati Sreyas, Adv.

For Respondent(s) Mr. Nishant Ramakantrao Katneshwarkar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of
accordingly.

(ASHWANI KUMAR)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed order is placed on the file)