

IN THE SUPREME COURT OF INDIA**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NOS.678-679 OF 2020****(Arising out of SLP (Criminal) Nos.2868-2869 of 2020)****HARIBANSH DUBEY****Appellant****VERSUS****DHARMENDRA DUBEY & ANR. ETC.****Respondents****O R D E R**

Leave granted.

These appeals arise out of the order dated 27.04.2020 passed by the High Court of Judicature at Allahabad in Criminal Misc. First Bail Application No.30081 of 2019 and Criminal Misc. First Bail Application No.48568 of 2019.

The respondents (Dharmendra Dubey, Radheyshyam @ Jokhelal, Ravindra Dubey, Abhishekh @ Buttoor, Pawan @ Golu, and Vipin Dubey) are facing prosecution pursuant to FIR No.51 dated 11.03.2019 registered with Police Station Shahganj, District Jaunpur, under Sections 147, 148, 149, 307, 302, 504, 506 and 34 IPC.

The FIR recorded the version of the informant as under:

"The applicant was engaged in getting the upper wall of his house constructed which the other side did not like and developed mutual enmity with me. Consequently, today on this date of 10.03.19, my lessee Radheyshyam @ Jokhelal S/o Jairam and his sons by names Virendra @ Bheem, Monu, Ravindra Dubey, Dharmendra Dubey, Abhishek @ Butter, Pawan @ Golu and Vipin Dubey barged at my doorsteps and on the dispute of my wall construction started verbal abuses with me to which when I objected, among them Radheyshyam @ Jokhelal, Vipin Dubey, Pawan @ Golu, Abhishek @ Butter, Dharmendra Dubey, Ravindra Dubey shouted a war cry against me with an intention to attack me at which time Virendra @ Bheem and Monu instigated others to attack me so that

today they will ensure that none among us will be spared our lives after which Virendra @ Bheem and Monu who were holding country rifles in their hands fired with a deliberate intention to kill us in our direction as a result of which, my brother Ramkewal, Ramugraha and my nephew Arvind Dubey were hit by bullet shots among whom my brother Ramkewal died due to this whereas, Ramugraha and Arvind Dubey who were got injured in the shooting spree taken to Jaunpur for medical treatment. On the incident spot the women folk of our house hold as well as Anand Kumar Dubey, Neeraj Dubey who have been present there any how manage to flee away from the attack and rescue themselves. This incident has occurred at about 10 p.m. at that relevant moment, electric bulb was glowing in our house. Therefore, it is hereby requested to you to take necessary action in this regard."

Thus, according to the prosecution, two persons died as a result of fire-arm injuries sustained during the transaction.

The incident had occurred on 10.03.2019 whereafter the respondents and their co-accused were arrested. After due investigation, charge-sheet was filed on 19.06.2019. By order presently under challenge, the respondents were granted bail on the ground that they were not the actual assailants and what was attributed to them was only the role of exhortation.

We have been informed that the charges have been framed by the Trial Court and the first witness is presently being examined in the trial.

Considering the allegations made in the FIR as well as the material on record, the High Court was clearly in error in granting bail in a case where two persons had lost their lives.

It must be stated that despite the order passed by the High Court, the respondents could not avail the benefit of bail as they are also facing prosecution with respect to the offences punishable under the Uttar Pradesh Gangsters and Anti-Social Activities

(Prevention) Act, 1986.

Be that as it may, since in our view, the respondents were not entitled to the relief of bail, we allow these appeals and set-aside the order passed by the High Court. We however direct the Trial Court to conclude the trial as early as possible.

Any discussion in the present order shall not be taken as reflection on merits of the matter which shall be gone into independently in the pending trial.

.....J.
[UDAY UMESH LALIT]

.....J.
[S. RAVINDRA BHAT]

.....J.
[HRISHIKESH ROY]

NEW DELHI;
OCTOBER 14, 2020.

ITEM NO.29

COURT NO.4
(HEARING THROUGH VIDEO CONFERENCING)

SECTION II

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 for Special Leave to Appeal (Cr1.) Nos.2868-2869/2020

(Arising out of impugned final judgment and order dated 27-04-2020 in CR MBA No.30081/2019, 27-04-2020 in CR MBA No.48568/2019 passed by the High Court Of Judicature At Allahabad)

HARIBANSH DUBEY

Petitioner(s)

VERSUS

DHARMENDRA DUBEY & ANR.

Respondent(s)

(IA No.53386/2020 - FOR EXEMPTION FROM FILING AFFIDAVIT; IA No.53381/2020 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No.53380/2020 - FOR EXEMPTION FROM FILING O.T.; and, IA No.53382/2020 - FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 14-10-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE HRISHIKESH ROYFor Petitioner(s) Mr. Ravindra Singh, Sr. Adv.
Mr. Raman Yadav, Adv.
Mr. Syed Mehdi Imam, AORFor Respondent(s) Mr. Pradeep Kumar Yadav, Adv.
Mr. Vishal Thakre, Adv.
Mr. Gopal Singh, Adv.
Mr. Abhay Singh Yadav, Adv.
Mr. Rudra Pratap Yadav, Adv.
Mr. Sanjeev Malhotra, AOR

Mr. Garvesh Kabra, AOR

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

Leave granted.

The appeals are allowed, in terms of the Signed Order.

Pending applications, if any, also stand disposed of.

**(MUKESH NASA)
COURT MASTER**

**(PRADEEP KUMAR)
BRANCH OFFICER**

(Signed Order is placed on the File)