

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2020
(Arising out of SLP(Crl.)No. 5332 of 2020)

MUNESH DEVI

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

This appeal takes exception to the judgment and order dated 03.03.2020 passed by the High Court of Judicature at Allahabad in Crl. Misc. Bail Application No. 8677 of 2020, whereby the respondent Nos. 2 and 3 (private respondents) came to be released on bail in connection with Case Crime No. 909 of 2019 under Sections 302/34 IPC registered at P.S. Devband, District Saharanpur, Uttar Pradesh.

This appeal has been filed by the complainant.

The grievance is that despite the High Court having noted the episode, including the factum of presence of accused captured on CCTV camera installed at the place of

incident, it proceeded to grant bail to the private respondents without recording any reason to disregard the stated evidence besides the other evidence against them, on which the prosecution intends to rely and now forming part of the chargesheet filed against them.

Learned counsel for the private respondents was at pains to persuade us to take the view that the bail was granted on 03.03.2020 by the High Court and since then, the private respondents have conducted themselves well and no untoward situation has arisen thereafter. That, in our view, is not relevant.

For, this court is called upon to examine the justness of the order dated 03.03.2020 releasing the private respondents on bail. We are in agreement with the stand taken by the complainant and supported by the State/prosecution that the order, to say the least, is cryptic. The only reason that can be discerned from the impugned order which, in our opinion, is no reason whatsoever is in the following words: -

"....In view of the facts and circumstances of the case and submissions made by learned counsel for the applicants and without expressing any opinion on the merits of the case the applicants are entitled to be released on bail.

Let the applicants Kawarpal and Ravindra involved in the aforesaid case crime number be released on

bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicants will not tamper with the evidence during the trial.

(ii) The applicants will not pressurize/intimidate the prosecuting witness.

(iii) The applicants will appear before the trial court on the date fixed.

In case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail."

Considering the nature of evidence already adverted to in the chargesheet, the High Court should have, albeit, prima facie, opined in favour of the private respondents and only then proceeded to grant bail. But, without analyzing the material relied upon by prosecution, the bail order as passed by the High Court cannot stand the test of judicial scrutiny. Hence, the order granting bail is set aside.

As a result of setting aside of the impugned order, the private respondent shall surrender before the concerned court within one week from today.

The bail application is remitted back to the High Court for being reconsidered afresh on its own merits and in accordance with law.

The fact that the impugned order has been set aside,

will not preclude the private respondents to urge all pleas, as may be permissible for grant of bail before the High Court, which will have to be considered afresh by the High Court.

It will be open to the private respondents to request the High Court to take up the bail application expeditiously, after surrendering.

The appeal is disposed of, in the above terms.

Pending applications, if any, stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(B.R. GAVAI)

.....J
(KRISHNA MURARI)

New Delhi
December 16, 2020

