

ITEM NO.20                      Court 3 (Video Conferencing)                      SECTION II

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) Nos.5333-5334/2020

(Arising out of impugned final judgment and order dated 12-05-2020 in CRLA No.7904/2019 and CRLA No.7904/2019 passed by the High Court of Judicature at Allahabad)

KRISHNA KUMAR

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

(WITH IA No.111261/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.111262/2020-EXEMPTION FROM FILING O.T.)

Date : 23-11-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MS. JUSTICE INDU MALHOTRA  
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s)    Mr. Gaurav Agarwal, Adv.  
                                 Ms. Shristi Agarwal, Adv.  
                                 Mr. Shashank Singh, AOR

For Respondent(s)

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

1     The learned Single Judge of the High Court has noted, while rejecting the application filed by the petitioner for suspension of sentence, that:

“The link has been sent to learned Advocate for hearing through video conferencing. He has not turned up so far.”

2     The High Court has thereafter expressed its *prima facie* view on merits and indicated the reasons why the suspension of sentence was denied.

- 3 Mr Gaurav Agarwal, learned counsel appearing on behalf of the petitioner, submits that since the High Court has not heard the counsel for the petitioner on the grant of suspension of sentence on merits, it would be appropriate if the petitioner is given liberty to approach the High Court. However, he apprehends that the application for bail may be dismissed on the ground that there is no change in the circumstances following the impugned order dated 12 May 2020.
- 4 Counsel for the petitioner was admittedly not heard by the learned Single Judge on the ground that though the learned counsel had been sent the link for hearing through video conferencing, he had not turned up before the High Court. In the course of the pandemic occasioned by the outbreak of Covid-19, the High Court, as indeed this Court, have made efforts to furnish access to justice through the video conferencing platform. In the present case the application for bail was dismissed in the absence of counsel.
- 5 In the facts of this case set out above, we are of the view that the petitioner should not be put to detriment as a result of the inability of his counsel to access the video conferencing link and the High Court should consider a fresh application for bail when it is filed by the petitioner. In doing so, the High Court will consider the bail application afresh without being influenced by the reasons which weighed with it in passing the impugned order.
- 6 Subject to the aforesaid, the Special Leave Petitions are disposed of.
- 7 Pending applications stand disposed of.

**(SANJAY KUMAR-I)**  
**AR-CUM-PS**

**(SAROJ KUMARI GAUR)**  
**COURT MASTER**