

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024  
[Arising out of SLP (Crl) No.10864/2024]

GAUTAM GARG

Appellant(s)

VERSUS

UNION OF INDIA

Respondent(s)

O R D E R

Heard learned senior counsel for the petitioner.

Leave granted.

With the consent of learned senior counsel for the respective parties, the appeal is finally heard.

This appeal assails the correctness and legality of the order dated 25.07.2024 passed by the Jaipur Bench of the Rajasthan High Court in S.B. Criminal Bail Cancellation Application No.168/2023.

Learned counsel appearing for the appellant submitted that the appellant was initially granted bail by the Additional Sessions Judge No.2, Jaipur Metropolitan-II in Bail Application No.179/2022 (C.I.S. No.3052 of 2023) under Sections 132(1) (c) & (f) of CGST Act, 2017. However, the respondent Union of India filed SB Criminal Application No.168 before the Jaipur Bench of the Rajasthan High Court seeking cancellation of the said bail.

Learned senior counsel during the course of his submission drew our attention to paragraphs 9 and 10 of the impugned order to contend that the impugned order has been passed by the High Court

in the absence of the learned counsel for the appellant being heard. Although, his written submissions were on record, the same could not have been considered in the absence of learned counsel for the appellant being heard in the matter as the matter was concerning his liberty and freedom. He, therefore, submitted that an opportunity may be given to the appellant herein for being represented by his counsel before the High Court and the High Court could re-decide the matter.

*Per contra*, learned Additional Solicitor General and learned senior counsel appearing for the respondent-Union of India pointed out to paragraph 8 of the impugned order wherein, the High Court has noted that the matter was heard on 29.04.2024 in the absence of the counsel for the appellant herein and again listed on 18.07.2024 upon the application filed by the appellant herein for consideration of his reply. However, the appellant's counsel again remained absent on 18.07.2024 and the matter was heard and disposed of on 25.07.2024. He submitted that ample opportunity was provided to the appellant herein but the appellant had not availed of the said opportunity and is now seeking to protract the proceeding by seeking the negation of the impugned order which is just and proper. He therefore submitted that there is no merit in the arguments advanced by the learned senior counsel for the appellant and hence, the appeal may be dismissed.

We have considered these submissions advanced at the Bar in light of what has been noted by the High Court in the impugned order. No doubt, the High Court has noted that the counsel for the

appellant did not appear before the High Court on certain dates. However, when the matter was called and reserved on 29.04.2024 and the judgment has been pronounced on 25.07.2024, in between the matter was taken up on 18.07.2024 on which date the counsel for the appellant herein did not appear as such. It is not known as to why after the case was reserved for orders on 29.04.2024 it was once again listed on 18.07.2024. On that day at least, the counsel for the appellant could have been heard. If he was absent on that day, an opportunity ought to have been given with possibly a warning to the appellant to ensure that his counsel was present on the next date of hearing. However, we find that on 18.07.2024, possibly the matter was again reserved and on 25.07.2024, the impugned order has been passed. The fact remains that the counsel for the appellant herein who had the advantage of an order of bail in his favour granted by the trial Court, was not heard in the matter and the impugned order of cancellation of bail was passed without hearing the counsel for the appellant herein. We find that there has been a breach of the principles of natural justice inasmuch as the counsel for the appellant was not heard by the High Court before passing the impugned order cancellation of bail granted to the appellant by the trial Court. On that short ground alone, the impugned order is set aside, the matter is remanded to the High Court. The High Court to re-consider the application filed by the respondent herein with regard to the cancellation of bail granted to the appellant herein.

It is needless to observe that reasonable opportunity would be given to both sides for advancing their arguments on the said

application. The appellant shall ensure that his counsel is present on the next date of hearing and not procrastinate the matter all over again. It is also needless to observe that the High Court shall dispose of the application in accordance with law.

We also clarify that we have not made any observation on the merits of the matter.

The appeal is allowed and disposed of in the aforesaid terms.

. . . . .,J  
[B.V. NAGARATHNA]

. . . . .,J  
[NONGMEIKAPAM KOTISWAR SINGH]

NEW DELHI,  
SEPTEMBER 09, 2024

ITEM NO.3

COURT NO.9

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 (CrI.) No.10864/2024

(Arising out of impugned final judgment and order dated 25-07-2024 in SBCRBCA No. 168/2023 passed by the High Court of Judicature for Rajasthan at Jaipur)

GAUTAM GARG

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(FOR ADMISSION and IA No.177685/2024-EXEMPTION FROM FILING O.T.)

Date : 09-09-2024 This petition was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA  
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Kaustav Paul, Sr. Adv.  
Mr. H. D. Thanvi, Adv.  
Mr. Nikhil Kumar Singh, Adv.  
Mr. Rishi Matoliya, AOR

For Respondent(s) Mr. Vikramjit Banerjee, A.S.G.  
Mr. Gurmeet Singh Makker, AOR  
Mr. K Parmeshwaran, Adv.  
Mr. Alankar Gupta, Adv.  
Mr. Tanmay Mehta, Adv.  
Mr. Sarthak Karol, Adv.  
Mr. Rajendra Singh Rana, Adv.

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

Leave granted.

The appeal is allowed and disposed of in terms of the signed order.

Pending application(s), if any, shall also stand disposed of.

(KRITIKA TIWARI)  
SENIOR PERSONAL ASSISTANT

(Signed order is placed on file)

(DIVYA BABBAR)  
COURT MASTER (NSH)