

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.581 OF 2020
(Arising out of SLP (CrI.) No.3162 of 2020)

ATHAR HUSSAIN

Appellant

VERSUS

STATE OF UTTAR PRADESH & ANR.

Respondents

O R D E R

Leave granted.

This appeal challenges the judgment and order dated 13.02.2020 passed by the High Court of judicature at Allahabad in Criminal Miscellaneous Bail Application No.54650 of 2019 whereby respondent no.2 herein was extended the facility of bail in connection with crime pursuant to FIR No.172 dated 30.04.2018 registered with Police Station Navabganj, District Allahabad, for the offences punishable under Sections 363, 366 of the Indian Penal Code, 1860 and Sections 3/4 of the Protection of Children from Sexual Offences Act, 2012.

The victim, the daughter of the original complainant, could be produced only after Habeas Corpus petition was filed by the complainant. Later, her statement under Section 164 Cr.P.C. was recorded.

Respondent no.2 was arrested on 06.08.2019 i.e. almost fifteen months later.

The application for bail preferred by respondent no.2 having been rejected by the Sessions Court, he approached the High Court by filing aforesaid Criminal Miscellaneous Bail Application.

With the assistance of the learned counsel for the parties, we have gone through the record. Considering the nature of allegations, in our view, the High Court was not justified in extending the facility of bail to respondent no.2.

Without considering merits or demerits of the submissions advanced on behalf of the parties in detail, lest any observations prejudice the case of any party, we allow this appeal and set-aside the order granting bail to respondent no.2.

Respondent no.2 shall surrender before the trial court within two weeks from today failing which the concerned police station shall take him in custody.

A copy of this order shall be sent to the Trial Court and the concerned police station for compliance.

We make it clear that we have not and shall not be taken to have reflected on the factual aspects of the matter in any way and the narration of events in the earlier part of the order was only by way of placing facts. The merits of the matter shall be gone into independently at every stage in the matter.

The appeal is allowed accordingly.

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

.....J.
[AJAY RASTOGI]

NEW DELHI;
SEPTEMBER 10, 2020

ITEM NO.12

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.) No.3162/2020

(Arising out of impugned final judgment and order dated 13-02-2020 in CRMA No.54650/2019 passed by the High Court Of Judicature At Allahabad)

ATHAR HUSSAIN

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ANR.

Respondent(s)

(FOR ADMISSION and I.R.; IA No.63170/2020 - FOR EXEMPTION FROM FILING O.T.; and, IA No.78529/2020 - FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 10-09-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE AJAY RASTOGIFor Petitioner(s) Mr. Ashok Kumar Singh, Adv.
Mr. Naresh Kumar Gaur, Adv.
Mr. Vikram Jain, Adv.
Ms. Pragya Singh, Adv.
Mr. Shantwanu Singh, AORFor Respondent(s) Mr. Ardhendumauli Kumar Prasad, AOR
Ms. Pooja Singh, Adv.Mr. S. Nagamuthu, Sr. Adv.
Mr. Parmatma Singh, AOR
Mr. Mayank Jain, Adv.
Mr. Madhur Jain, Adv.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 applications, if any, also stand disposed of.

**(MUKESH NASA)
COURT MASTER**

**(PRADEEP KUMAR)
BRANCH OFFICER**

(Signed Order is placed on the File)