

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2037/2017
(Arising Out of SLP (Crl) No(s).3148/2017)

DEVENDRA PRATAP SINGH

Appellant (s)

VERSUS

MANOJ KUMAR TIWARI & ANR.

Respondent (s)

O R D E R

Leave granted.

2. This appeal is filed by the appellant questioning the grant of bail by the High Court by the Allahabad High Court, Bench at Lucknow to the Respondent No.1 herein who was accused in Case Crime No.181 of 2015 under Sections 364/34, 120-B of the Indian Penal Code.

3. It is the case of the appellant that on 23-5-2015 while he was travelling in a car along with Niraj Singh (Complainant), he was abducted by one Diwakar Tiwari (co-accused) who acted on behest of primary accused-respondent No. 1 herein against whom 32 criminal cases are pending.

4. This Court on 13-4-2017 granted permission to the appellant to file Special Leave Petition and while issuing notice to the respondents, the operation of the impugned order passed by

the High Court has been stayed. Thereafter, counter affidavits have been filed on behalf of accused–respondent No. 1 as well as State, indicating the status of investigation of the case.

5. Today we have heard learned counsels appearing for the parties at length. We are informed by the learned counsel for the State that accused Nos. 2 and 3 in the same case are not arrested because of the interim protection granted to them by the High Court to the effect that they shall not be arrested till the charge-sheet is filed. However, on 18-11-2017, charge-sheet against them has also been filed and the matter is ripe for framing of charges.

6. The main contention of Mr. Raju Ramachandran, learned Senior counsel appearing for the appellant is that the High Court has erred in relying upon the bail order passed by another Bench of the same High Court i.e., regarding Diwakar Tiwary @ Dabloo, as there is no parity with the present Respondent No.1, who is the main culprit, more so when 32 cases are pending and in some of them he is charged with intimidation and also trying to influence the witnesses.

7. Per contra, Mr. Amit Shukla, learned counsel appearing for Respondent No.1 submitted that investigation has already been completed and in spite of that he is in jail. Further, it is not appropriate on the part of the appellant to seek cancellation of bail on the ground that the respondent is involved in some other

cases.

8. We find from the material on record that by an order dated 29-03-2016 (Annexure P-5), another Single Judge of the same High Court, granted bail to the co-accused Diwakar Tiwari @ Dabloo. In the case on hand, while granting bail to the respondent No.1 herein, learned Single Judge of the High Court placed reliance on the said order dated 29-03-2016 and observed that:

It appears that after considering the merit of the case, a Bench of this Court, while granting bail to Diwakar Tiwari @ Dabloo observed that "prosecution as a whole is unbelievable".

Whereas, the relevant portion of the said order dated 29-03-2016 (Annexure-P5) reads thus:

"Learned counsel states that, in the present case, the story set up by prosecution, as a whole, is unbelievable..".

9. It is evident that in the case on hand, the learned Single Judge of the High Court, misread the contention of the counsel expressed in the relied upon order dated 29-03-2016 as if it was an observation of another Bench of the High Court on the merits of the case.

10. Thus, taking note of all the facts and circumstances of the case, we are of the considered view that before passing the impugned order, the High Court has not properly appreciated the whole material placed before it. We, therefore, set aside the

impugned bail order granted to the respondent No. 1 by the High Court on 30-1-2017 and remand the matter back to the High Court for reconsideration.

11. We make it clear that we have not expressed any opinion on the merits of the case on hand. However, we request the High Court to reconsider the bail application of Respondent No.1 herein on merits after taking into consideration all the material facts placed before it and duly affording opportunity of being heard to the parties. We expect the High Court to dispose of the matter as expeditiously as possible, but not later than four weeks from the date of communication of this order.

12. The appeal is disposed of in the afore-stated terms.

.....J.
(N.V. RAMANA)

.....J.
(S. ABDUL NAZEER)

NEW DELHI,
NOVEMBER 28, 2017.

ITEM NO.20

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(s) for Special Leave to Appeal (Crl.) No(s). 3148/2017

(Arising out of impugned final judgment and order dated 30-01-2017 in CRMBA No. 7471/2016 passed by the High Court Of Judicature At Allahabad, Lucknow Bench)

DEVENDRA PRATAP SINGH

Petitioner(s)

VERSUS

MANOJ KUMAR TIWARI & ANR.

Respondent(s)

(IA No.120066/2017-STAY APPLICATION and and IA
No.104916/2017-EXEMPTION FROM FILING O.T. and IA
No.120069/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS and IA
No.120070/2017-EXEMPTION FROM FILING O.T. and IA
No.127375/2017-EXEMPTION FROM FILING O.T. and IA
No.127426/2017-EXEMPTION FROM FILING O.T.)

Date : 28-11-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE S. ABDUL NAZEER

For Petitioner(s)

Mr. Raju Ramachandran, Sr. Adv.
Mr. Purnendu Chakravarthy, Adv.
Mr. Fuzail Ahmad Ayyubi, AOR
Mr. Ishwar Mohanty, Adv.
Mr. Varun Mishra, Adv.

For Respondent(s)

Mr. Ardhendumauli Kumar Prasad, AOR
Ms. Shalini Kumar, Adv.

Mr. Arvind Kumar Shukla, Adv.
Mr. Amit Shukla, Adv.
Mr. Alok Shukla, AOR
Ms. Sweta Rani, Adv.
Mr. Nihal Ahmad, Adv.

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

Leave granted.

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

Pending applications filed in the matter are also stand disposed of.

(VISHAL ANAND)
COURT MASTER (SH)

(RENUKA SADANA)
ASST.REGISTRAR

(Signed Order is placed on the file)