

CA 233/2023

ANUPAMA SACHDEVA Vs. STATE NCT OF DELHI

11.12.2023

Present: Sh Virender Singh, Ld. Counsel for appellant.
Sh. Wasi-Ur- Rahman, Ld. Addl. PP for the State/R1
Sh Sunil Sehgal and Arun Sehgal, Ld. Counsel
for respondent.

1 Today, the matter was listed for hearing arguments on criminal appeal. It has been submitted by Ld. Counsel for appellant that in terms of *Vivek Sahani & Anr Vs Kotak Mahindra Bank Ltd CRM-M 29188-2019* Appellate Court ought not to have cancelled the bail granted to convict.

2 *Per contra*, Ld Counsel for respondent submitted that the verdict of *Vivek Sahani (supra)* would not be applicable to the facts and circumstances of this present case inasmuch as in the said case the part of compensation/fine amount was already recovered under surfacic proceedings.

3 Submissions heard.

4 The fact of the matter is that the present appeal filed by the appellant was allowed on 26.07.2023 and the impugned judgment dated 04.02.2023 and order on sentence dated 26.06.2023 passed by Ld Trial Court was **stayed subject to depositing of 20 % of fine/compensation amount** to be paid to the respondent in form of DD within 60 days from 26.07.2023. it is an admitted position that despite lapses of 60 days, the appellant has not complied with order dated 26.07.2023. Ld.

Counsel for appellant submitted that the son of appellant who is 25 years old was admitted in Max Hospital from 26.09.2023 and was discharged only on 04.12.2023 and therefore the appellant could not comply with order dated 26.07.2023.

5 However, a perusal of record would reveal that the appellant is not entitled to any leniency inasmuch as the order to pay 20% of fine/compensation amount was passed on 26.07.2023 whereas the son was admitted only after about 2 months i.e. on 27.09.2023. Even as on date the son has been discharged from the hospital. Thus, the appellant had sufficient time to arrange for the funds and comply with order dated 26.07.2023.

6 Under these circumstances, this Court deems it fit to vacate the stay granted to appellant vide order dated 26.07.2023. Since appellant is not present today, **issue NBW against appellant Anupama Sachdeva and notice u/s 446 Cr.PC to his surety through IO/SHO concerned** for the next date of hearing.

7 Put up for **hearing arguments on criminal appeal on 20.03.2024.**

(ARUL VARMA)
ASJ-04 + Spl. Judge (NDPS) South East District,
Saket Court, New Delhi: 11.12.2023